

# Napa County

Board of Supervisors Chambers  
1195 Third Street, Third Floor  
Napa, CA 94559



## Agenda - Final

**\*Consolidated**

**Tuesday, March 14, 2023**

**9:00 AM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

## **Board of Supervisors**

*Joelle Gallagher, District 1*

*Ryan Gregory, District 2*

*Anne Cottrell, District 3*

*Alfredo Pedroza, District 4*

*Belia Ramos, District 5*

*\* This is a simultaneous meeting of the Board of Supervisors of Napa County, Napa County Public Improvement Corporation, Silverado Community Services District, Monticello Public Cemetery District, In-Home Support Services Public Authority of Napa County, Lake Berryessa Resort Improvement District, Napa Berryessa Resort Improvement District, Napa County Housing Authority, and the Napa County Groundwater Sustainability Agency.*

[www.countyofnapa.org](http://www.countyofnapa.org)

**GENERAL INFORMATION**

The Board of Supervisors meets as specified in its adopted annual calendar on Tuesdays at 9:00 A.M. in regular session at 1195 Third Street, Suite 310, Napa, California 94559. The meeting room is wheelchair accessible. Assistive listening devices and interpreters are available through the Clerk of the Board of the Napa County Board of Supervisors. Requests for disability related modifications or accommodations, aids or services may be made to the Clerk of the Board's office no less than 72 hours prior to the meeting date by contacting (707) 253-4580.

**The agenda is divided into three sections:**

**CONSENT ITEMS** - These matters typically include routine financial or administrative actions, as well as final adoption of ordinances that cannot be both introduced and adopted at the same meeting. Any CONSENT ITEMS can be discussed separately at the request of any person. CONSENT ITEMS are usually approved with a single motion.

**SET MATTERS - PUBLIC HEARINGS** - These items are noticed hearings, work sessions, and items with a previously set time.

**ADMINISTRATIVE ITEMS** - These items include significant policy and administrative actions and are classified by program areas. Immediately after approval of CONSENT ITEMS if the time for hearing SET MATTERS has not arrived, ADMINISTRATIVE ITEMS will be considered.

All materials relating to an agenda item for an open session of a regular meeting of the Board of Supervisors which are provided to a majority or all of the members of the Board by Board members, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, at the time of such distribution, in the office of the Clerk of the Board of Supervisors, 1195 Third Street, Suite 305, Napa, California 94559, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection after the meeting. Availability of materials related to agenda items for inspection does not include materials which are exempt from disclosure under the California Government Code.

**ANY MEMBER OF THE AUDIENCE DESIRING TO ADDRESS THE BOARD:****ON A MATTER ON THE AGENDA**

Please proceed to the podium when the matter is called and, after receiving recognition from the Chair, give your name and your comments or questions. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chair or Board, but is generally limited to three minutes.

**ON A MATTER NOT ON THE AGENDA**

Public comment is an opportunity for members of the public to speak on items that are not on the agenda but are within the subject matter jurisdiction of Napa County and its related districts and agencies. Public comment is limited to three minutes per speaker. Comments should be brief and focused, and speakers should be respectful of one another who may have different opinions. The Board is here to listen to everyone who wishes to address them, but everyone has the responsibility to act in a civil manner. Please remember this meeting is being recorded and broadcast on live television. The County will not tolerate profanity, hate speech, abusive language, or threats. Also, while public input is appreciated, the Brown Act prohibits the Board from taking any action today on matters raised during public comment.



**How to Watch or Listen to the Napa County Board of Supervisors Meetings**

The Napa County Board of Supervisors will continue to meet pursuant to the annually adopted meeting calendar available at the following link:

<https://www.countyofnapa.org/1429/Board-of-Supervisors-Special-Districts-C>

The Board realizes that not all County residents have the same ways to stay engaged, so several alternatives are offered. Remote Zoom participation for members of the public is provided for convenience only. In the event that the Zoom connection malfunctions for any reason, the Board of Supervisors reserves the right to conduct the meeting without remote access.

Please watch or listen to the Board of Supervisors meeting in one of the following ways:

1. Attend in-person at the Board of Supervisors Chambers, 1195 Third Street, Napa Suite 305.
2. Watch via YouTube at <https://www.youtube.com/@NapaCounty/streams>.
3. Watch online at [countyofnapa.org/boardcalendar](https://www.countyofnapa.org/boardcalendar) (click the “In Progress” link in the “Video” column).
4. Watch on Napa Valley TV Channel 28.
5. Watch on Zoom via [www.zoom.us/join](https://www.zoom.us/join) (Meeting ID: 842-343-169) or listen on Zoom by calling 1-669-900-6833 (Meeting ID: 842-343-169).

**If you are unable to attend the meeting in person and wish to submit a general public comment or a comment on a specific agenda item, please do the following:**

1. Leave a voice mail on the public comment line at 707-299-1776 (comments will be limited to three minutes).
2. Email your comment to [publiccomment@countyofnapa.org](mailto:publiccomment@countyofnapa.org).

Your comment will be shared with all members of the Board of Supervisors.

For more information, please contact the Clerk of the Board's office at 707-253-4580 or email [clerkoftheboard@countyofnapa.org](mailto:clerkoftheboard@countyofnapa.org).

**1. CALL TO ORDER; ROLL CALL****2. PLEDGE OF ALLEGIANCE****3. APPROVAL OF MINUTES**

- A. Clerk of the Board requests approval of minutes from the February 28, 2023 regular meeting.

[23-0399](#)

**Attachments:** [February 28, 2023](#)

**4. PRESENTATIONS AND COMMENDATIONS**

- A. Director of Human Resources to introduce new County employees.

[23-0366](#)

**5. DEPARTMENT HEAD REPORTS AND ANNOUNCEMENTS****6. CONSENT ITEMS - SPECIAL DISTRICTS****Napa County Housing Authority**

- A. Director of Housing & Homeless Services requests approval of a Budget Adjustment to purchase two HVAC systems at the Calistoga Farmworker Center using County Service Area No. 4 available fund balance; and separately accepting a donation for household goods (4/5 vote required):

[23-0385](#)

1. Decrease Available Fund Balance \$43,200 (Fund 2810, Org 2810000, Obj 33100);
2. Increase Transfer Out Appropriation \$43,200 (Fund 2810, Org 2810000, Obj 56100) offset by available fund balance;
3. Increase Transfer In Revenue \$43,200 (Fund 5060, Org 5060501, Obj 48200);
4. Establish two capital assets for a total of \$43,200, which includes the purchase of two HVAC units \$29,600 and \$12,600, and \$1,000 Public Works Construction Contract (Fund 5060, Org 5060501, 55400);
5. Increase Maintenance-Building & Improvement Public Works Charge Appropriation by \$1,000 (Fund 5060, Org 5060501, Obj 52510);
6. Increase Donation Revenue \$19,900 (Fund 5060, Org 5060501, 5060502, 5060503, Obj 47500); and
7. Increase Household Expense Appropriations \$19,900 (Fund 5060, Org 5060501, 5060502, 5060503, Obj 53305).

- B.** Director of Housing & Homeless Services requests approval of Budget Adjustments for increased expense in operating services and supplies, offset by expense savings and Tenant Rent revenue (4/5 vote required): [23-0412](#)
1. Increase Water Treatment Service Appropriation \$2,000 (Fund 5060, Org 5060501, Obj 52383);
  2. Increase Household Expense Appropriation \$12,000 (Fund 5060, Org 5060501, Obj 53305);
  3. Increase Utilities - Fire Supp Systems Appropriation \$5,000 (Fund 5060, Org 5060501, Obj 53215);
  4. Increase Utilities - Sewer Appropriation \$5,000 (Fund 5060, Org 5060501, Obj 53225);
  5. Decrease Other Professional Services Appropriation \$20,000 (Fund 5060, Org 5060503, Obj 52490);
  6. Increase Utilities - Fire Supp Systems Appropriation \$5,000 (Fund 5060, Org 5060502, Obj 53215); and
  7. Increase Rent - Tenants Revenue \$9,000 (Fund 5060, Org 5060502, Obj 45310).

## 7. CONSENT ITEMS

### Corrections

- A.** Director of Corrections requests approval of and authorization for the Chair to sign the renewal of Agreement No. 170747B (DHCS 23-30036 and 23-MCIPNAPA-28) with the California Department of Health Care Services for a maximum up to \$10,400 per fiscal year for the term July 1, 2023 through June 30, 2026 to participate in the Medi-Cal County Inmate Program. [23-0343](#)

**Attachments:** [Agreement](#)

### County Executive Office

- B.** Interim County Executive Officer requests adoption of a Resolution proclaiming the termination of the state of local emergency and the local health emergency due to COVID-19. [23-0322](#)

**Attachments:** [Resolution](#)  
[Governor's proclamation ending emergency](#)

- C.** Interim County Executive Officer requests the Board receive a report on lost revenues due to canceling certain criminal justice fines and fees and authorize submittal of the report to the Director of Finance, the Legislative Analyst's Office, and the Joint Legislative Budget Committee. [23-0356](#)

**Attachments:** [Report](#)

**Health and Human Services Agency**

- D.** Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign a certification statement with Department of Health Care Services (DHCS) for Fiscal Year 2022-2023, confirming the County's agreement to comply with all applicable provisions governing the California Children's Services (CCS) program (Agreement No. 230315B). [23-0216](#)

**Attachments:** [Certification Statement](#)

- E.** Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 220080B with the University of California, Davis (UC Davis), to add a Data Use Agreement to the existing agreement in order to enable County to share data with UC Davis researchers. [23-0217](#)

**Attachments:** [Agreement](#)

- F.** Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign the following agreements for Fiscal Year 2022-2023 to provide outreach for and linkage to the Medi-Cal program and services as well as facilitate the Medi-Cal application process: [23-0226](#)

1. Agreement No. 230303B with Cope Family Center, Inc., for a maximum of \$50,295;
2. Agreement No. 230302B with Spirit of Unity in Napa, Inc., dba Puertas Abiertas, for a maximum of \$24,857;
3. Agreement No. 230308B with Parents Child Advocacy Network for a maximum of \$23,500; and
4. Agreement No. 230310B with Up Valley Family Centers of Napa Valley, Inc., for a maximum of \$11,775.

**Attachments:** [Cope Family Center Agreement](#)  
[Spirit of Unity dba Puertas Abiertas Agreement](#)  
[Parents Child Advocacy Network Agreement](#)  
[Up Valley Family Centers of Napa Valley Agreement](#)

- G.** Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Amendment No. 4 to Agreement No. 160075B with North Valley Behavioral Health, LLC., for a new contract maximum of \$1,000,000 for Fiscal Year 2022-2023, and each subsequent automatic renewal, for psychiatric hospitalization services. [23-0227](#)

**Attachments:** [Amendment](#)

- H.** Director of Health and Human Services Agency (HHSa) requests approval of and authorization for the Chair to sign Agreement No. 230316B with A&A Health Services, LLC, in the amount of \$250,000 for Fiscal Year 2022-2023, and each subsequent renewal, for the provision of residential care for adult mental health clients. [23-0228](#)

**Attachments:** [Agreement](#)

- I.** Director of Health and Human Services Agency (HHSa) requests adoption of a Resolution amending the Napa County Bylaws Manual Part II, Section 8 Mental Health Board, effective January 9, 2023, to reflect changes to Article V-Qualifications of Members and Article XV-Policies and Procedures. [23-0310](#)

**Attachments:** [Resolution](#)  
[Bylaws \(Clean\)](#)  
[Bylaws \(Redline\)](#)

#### **Housing & Homeless Services – Division of CEO’s Office**

- J.** Director of Housing & Homeless Services requests approval of and authorization for the Chair to sign Agreement No. 230348B with Kristin Lowell, Inc. for a maximum of \$5,800 for the term March 14, 2023 to March 30, 2024 for the annual County Service Area No. 4 (CSA No. 4) Engineer’s Report. [23-0320](#)

**Attachments:** [Agreement](#)

- K.** Director of Housing & Homeless Services requests approval of a Budget Adjustment for increased expenses in consulting services, computer equipment and software, and interfund expenditures, offset by mitigation fee revenue (Org 2080000); transfer appropriations originally budgeted from ARPA to buildings and improvement expense (ADU program Org 2080050) to instead be Long Term Loans (Affordable Housing program Org 2080010); and transfer expense appropriations for transfers out to the administrative area of the fund (org 2080000) (4/5 vote required): [23-0432](#)
1. Increase Consulting Services Appropriation \$5,000 (Fund 2080, Org 2080000, Obj 52310);
  2. Increase Computer Equipment/Accessories Appropriation \$2,500 (Fund 2080, Org 2080000, Obj 53410);
  3. Increase Computer Software/Licensing Appropriation \$2,000 (Fund 2080, Org 2080000, Obj 53415);
  4. Increase Interfund Expenditure Appropriation \$500 (Fund 2080, Org 2080000, Obj 54900);
  5. Increase Mitigation Fee-Commercial Revenue \$10,000 (Fund 2080, Org 2080000, Obj 46710);
  6. Increase Long Term Loan Appropriation \$2,000,000 (Fund 2080, Org 2080010, Obj 56500);
  7. Increase Transfers-In Revenue \$2,000,000 (Fund 2080, Org 2080010, Obj 48200);
  8. Decrease Buildings and Improvements Appropriation \$2,000,000 (Fund 2080, Org 2080050, Obj 55300);
  9. Decrease Transfers-In Revenue \$2,000,000 (Fund 2080, Org 2080050, Obj 48200);
  10. Increase Intrafund Transfers Out Appropriation \$88,000 (Fund 2080, Org 2080000, Obj 57900);
  11. Increase Transfers-In Revenue \$88,000 (Fund 2080, Org 2080000, Obj 48200);
  12. Decrease Intrafund Transfers Out Appropriation \$88,000 (Fund 2080, Org 2080050, Obj 57900); and
  13. Decrease Transfers-In Revenue \$88,000 (Fund 2080, Org 2080050, Obj 48200).

**Human Resources – Division of CEO's Office**

- L.** Director of Human Resources and Director of Health and Human Services Agency (HHSA) request adoption of a Resolution amending the Departmental Allocation List for multiple divisions of the Health and Human Services Agency, with a net increase of 1.5 FTE, and no impact to the County General Fund. [23-0428](#)

**Attachments:** [Resolution](#)

- M.** Director of Human Resources and District Attorney request adoption of a Resolution amending the Table and Index of Classes and the Departmental Allocation List for the District Attorney's Office, by adding one 1.0 full-time equivalent (FTE) DA Media Investigative Technician, effective March 14, 2023, with a net increase of one FTE, and an impact to the County General Fund. [23-0429](#)

**Attachments:** [Resolution](#)

- N.** Director of Human Resources requests adoption of a Resolution approving an adjustment to the Engineering Manager classification salary to avoid compaction, and deleting the defunct Engineering MGR - PBES classification, effective December 22, 2022. [23-0430](#)

**Attachments:** [Resolution](#)

**Information Technology Services – Division of CEO's Office**

- O.** Chief Information Officer requests a waiver of competitive bidding requirement and sole source award to AMS.NET (pursuant to Napa County Code Section 2.36.090) for a maximum of \$106,147 for the term of March 14, 2023, through June 30, 2026, for the purchase of the following equipment, labor and licensing for the Countywide wireless internet service project: [23-0362](#)
1. Flood Building:
- a. Meraki Cloud Managed Access Points for \$4,058 for three-year licensing and three Access Points; including \$1,150 labor for a maximum amount of \$5,208;
- b. Wireless Cabling for \$2,740 labor and \$824 materials for a maximum of \$3,564;
2. Juvenile Hall:
- a. Meraki Cloud Managed Access Points for \$31,113 for three-year licensing and twenty-three Access Points; including \$6,550 labor for a maximum of \$37,663;
- b. Wireless Cabling for \$15,720 labor and \$4,933 materials for a maximum of \$20,653;
3. Napa Sanitation:
- a. Meraki Cloud Managed Access Points for \$21,494 for three-year licensing and fifteen Access Points; including \$4,550 labor for a maximum \$26,044; and
- b. Wireless Cabling for \$9,960 labor and \$3,055 materials for a maximum of \$13,015.

**Attachments:** [Agreement](#)

- P.** Chief Information Officer requests the following actions regarding replacement of portable radio equipment (4/5 vote required): [23-0431](#)
1. A waiver of competitive bidding requirement and sole source award to Motorola Solutions in the amount of \$315,000; and
2. Establishment of a capital asset in the amount of \$315,000 for Motorola portable radios.



**Public Works**

- Q.** Director of Public Works requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 230037B with HCI Services, Inc. to: [23-0207](#)

1. Increase compensation for routine fire system services by \$1,000 for a new maximum amount of \$49,220 per fiscal year for the term of the agreement;
2. Increase compensation for non-routine services by \$25,000 for a new maximum amount of \$95,000 in fiscal year 2022-23; and increasing compensation for non-routine services by \$5,000 for contract years two through five for a new maximum amount of \$25,000 to address critical maintenance and repairs at various County locations; and
3. Amend the scope of work to include routine monitoring, testing, and inspection of the alarm system at Carneros Fire Station 210.

**Attachments:** [Agreement](#)

- R.** Director of Public Works requests the following for the “South Napa Shelter Phase II - HVAC Project,” PW 20-16A: [23-0270](#)
1. Award of the contract for the South Napa Shelter Phase II - HVAC Project, PW 20-16A to RBH Construction, Inc. of Folsom, California for their low base bid of \$443,944, with Additive Alternate No. 1 of \$151,558, and Additive Alternate No. 2 for \$52,669, for a total contract cost of \$648,171, and authorization for the Chair to sign the construction contract, Agreement No. 230332B; and
  2. Approval of Budget Transfer for the following (4/5 vote required):
    - a. Decrease appropriations in the following Housing and Homeless Services objects, \$326,724 from Other Professional Services (Fund 2030, Org 2030000, Object 52490) and \$350,000 from Client Provider Services (Fund 2030, Org 2030000, Object 52430) to increase appropriation in Transfers-Out by \$676,724 (Fund 2030, Org 2030000, Object 56100) to transfer to Homeless Shelter Improvements Project Budget (Fund 3000, Org 3000550, Project 20030, Object 48200);
    - b. Increase appropriations by \$217,865 from Accumulated Capital Outlay (ACO) (Fund 3000, Org 3000000, Object 57900) budget with the use of its available fund balance to transfer to Project 20030 (Fund 3000, Org 3000550, Project 20030, Object 48200); and
    - c. Increase appropriations by \$894,589 in Project 20030 (Fund 3000, Org 3000550, Project 20030, Object 52360) budget offset by transfer-in revenues from the Housing and Homeless Services budget and ACO.

**Attachments:** [Budget Phase II-HVAC](#)  
[Bids Received Feb 9, 2023](#)

- S. Director of Public Works requests the following (4/5 vote required): [23-0364](#)
1. Approval of the Plans and Specifications for the “2023 Berryessa Improvements Project” (RDS 22-05, 22-13, 23-05, and 23-16), and the authorization to advertise for sealed bids and opening of the bids at the time, date, and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code;
  2. Change Berryessa Pines/Spanish Flat Pavement Project (Fund 2040, Org 2040500, Project 23010) name to Berryessa Pines Paving Project;
  3. Create new Capital Improvement Project for Spanish Flat Loop Road Paving Project (Fund 2040, Org 2040500, Project 23040); and
  4. Approval of Budget Transfer for the following:
    - a. Increase appropriations by \$30,000 in the Accumulated Capital Outlay (ACO) (Fund 3000, Org 3000000, Object 56100) with the use of its available fund balance to transfer to Project 23040 (Fund 2040, Org 2040500, Object 48200); and
    - b. Increase appropriations by \$30,000 in Project 23040 (Fund 2040, Org 2040500, Object 52145) offset by a transfer-in revenue from the ACO.

**Attachments:** [Budget Summary-Berryessa Knoxville Road](#)  
[Budget Summary-Berryessa Highlands](#)  
[Budget Summary-Berryessa Pines](#)  
[Budget Summary-Spanish Flat Paving](#)  
[Budget Summary-Steele Canyon Road](#)

- T. Director of Public Works requests approval of and authorization for the Chair to sign Agreement No. 230342B with Facilities By Design for the term of July 1, 2023 through June 30, 2026 with an automatic annual renewal not to exceed two years, and an annual maximum compensation of \$150,000 for professional space planning, design, and furniture coordination services. [23-0387](#)

**Attachments:** [Agreement](#)

- U. Director of Public Works requests approval of a Budget Adjustment increasing appropriations in the Airport Operations Capital Asset account (Fund 5010, Org 5010000, Object 55400) by \$9,299 with an offsetting decrease to fund balance and establishment of a Capital Asset in the amount of \$9,299 for the purchase of a 2022 EZGO RXV battery powered Utility Cart for the Airport (4/5 vote required). [23-0419](#)

**8. DISCUSSION OF ITEMS PULLED FROM CONSENT CALENDARS**

**9. PUBLIC COMMENT**

**For all matters not listed on the agenda but within the jurisdiction of the Board of Supervisors and Special Districts. (see page 1)**

**10. ADMINISTRATIVE ITEMS - SPECIAL DISTRICTS**

**11. ADMINISTRATIVE ITEMS****Auditor-Controller**

- A. Auditor-Controller requests acceptance of the County's Single Audit Report for the fiscal year ended June 30, 2022. [23-0363](#)

**Attachments:** [Single Audit Report Final](#)

- B. Auditor-Controller requests the Board to accept, and instruct the Clerk of the Board to file, the updated Internal Audit Charter effective March 14, 2023. [23-0390](#)

**Attachments:** [Proposed Internal Audit Charter](#)  
[2012 Internal Audit Policy \(Charter\)](#)  
[Internal Audit Charter 2012 v. 2023 Comparison](#)

**County Executive Office**

- C. Interim County Executive Officer and Clerk of the Board request the appointment of two Directors and two Alternates to the Napa Valley Transportation Authority (NVTa). [23-0365](#)

- D. Interim County Executive Officer requests that the Board: [23-0389](#)
1. Receive a presentation of the five-year budget forecast, Section 115 Trust Fund, and American Rescue Plan Act;
  2. Approve mid-year Budget Adjustments per the attached reports; and
  3. Authorize the creation of a new non-operating special revenue fund for CARE Court in Fund 2460, Division 24622, Subdivision 20000252 (4/5 vote required).

(CONTINUED FROM FEBRUARY 28, 2023)

**Attachments:** [OPEB Report](#)  
[Forecast](#)  
[Mid-Year Report](#)  
[Correction Memorandum \(added after the meeting\)](#)  
[PowerPoint Presentation \(added after the meeting\)](#)

E. Interim County Executive Officer requests the following actions: [23-0401](#)

1. Consideration and appointment of District 1 Supervisor Joelle Gallagher's nomination of Kara Brunzell to the Napa County Planning Commission with the term of office to commence immediately and run coterminous with the term of Supervisor Joelle Gallagher (December 31, 2026).
2. Consideration and appointment of District 3 Supervisor Anne Cottrell's nomination of Heather Phillips to the Napa County Planning Commission with the term of office to commence immediately and run coterminous with the term of Supervisor Anne Cottrell (December 31, 2026).

Applicants:

Keri Akemi-Hernandez  
Yvonne Baginski  
Kara Brunzell  
Erean O'Neill  
Lucio Perez  
Heather Phillips

**Attachments:** [Akemi-Hernandez Application](#)  
[Baginski Application](#)  
[Brunzell Application](#)  
[O'Neill Application](#)  
[Perez Application](#)  
[Phillips Application](#)

**Planning, Building and Environmental Services (PBES)**

F. Interim Director of Planning, Building and Environmental Services requests acceptance of the annual report regarding the status of the Napa County General Plan and progress in its implementation as required by Government Code Section 65400. [23-0316](#)

**Attachments:** [2022 Annual Report Transmittal Letter](#)  
[2022 General Plan Implementation Table](#)  
[2022 Housing Programs Implementation Table](#)  
[2022 Housing Element - Table B](#)  
[2022 Housing Element Summary](#)  
[Correction Memorandum \(added after the meeting\)](#)

**Public Works**

- G.** Board to receive a presentation, and possibly provide direction on, the disposition of a segment of Old Howell Mountain Road (OHMR) which was closed due to storm damage in 2017 and was further damaged by the January 2023 storms. [23-0269](#)

**Attachments:** [Old Howell Mountain Road Map](#)  
[PowerPoint Presentation \(added after the meeting\)](#)

- H.** Director of Public Works requests the Board of Supervisors: [23-0335](#)
1. Receive an update on the planning and design of the 1127 First Street HVAC Replacement Project, PW 21-23; and
  2. Provide direction whether to move the Project forward given the Facilities Master Planning process initiated on January 31, 2023.

**Attachments:** [Map](#)  
[Paths Plan](#)

**12. SET MATTERS OR PUBLIC HEARING - SPECIAL DISTRICTS**

**13. SET MATTERS OR PUBLIC HEARINGS****County Executive Office****A. PUBLIC HEARING 9:00 AM****[23-0295](#)**

Director of Public Works requests adoption of a resolution taking the following actions related to the sale of approximately 2,900 square feet of County-owned property located at 212 Walnut Avenue in the City of Napa (Property) for development of affordable housing:

1. Approval of Government Code Section 52201 Summary Report and finding that the sale of Property will create economic opportunity and result in the development of seven (7) units of for-sale affordable housing and job creation as the result of the anticipated construction of the new development;
2. Approval of and authorization for the Chair to sign Purchase and Sale Agreement No. 230350B and Escrow Instructions (Agreement) with Napa Community Development Fund, LP, for transfer of Property for fair market value of \$58,220 for the development of affordable housing;
3. Authorization for the Interim County Executive Officer, or designee, to execute all ancillary documents, and to take any other actions necessary for the purpose of transferring Property consistent with the terms and conditions of the Agreement; and
4. Find and determine that disposition of Property pursuant to the Agreement is exempt from the California Environmental Quality Act (CEQA).

**Attachments:** [Summary Report](#)  
[Property Description](#)  
[Purchase and Sale Agreement](#)  
[Resolution](#)

**B. SET MATTER 9:30 AM - Microbusiness COVID-19 Relief Grant****[23-0294](#)**

Solano-Napa Small Business Development Center representatives will provide an update regarding administration of the County's Microbusiness COVID-19 Relief Grant program.

**Attachments:** [PowerPoint Presentation \(added after the meeting\)](#)

**14. LEGISLATIVE ITEMS****15. BOARD OF SUPERVISORS COMMITTEE REPORTS AND ANNOUNCEMENTS****16. BOARD OF SUPERVISORS FUTURE AGENDA ITEMS**

**17. COUNTY EXECUTIVE OFFICER REPORTS AND ANNOUNCEMENTS****18. CLOSED SESSION****A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**[23-0398](#)

(Government Code section 54956.9(d)(1))

Name of case: In re: National Prescription Opiate Litigation

Case No.: U.S. District Court for the Northern District of Ohio, Case No.

1:17-md-2804

**19. ADJOURNMENT****ADJOURN TO THE BOARD OF SUPERVISORS REGULAR MEETING, TUESDAY,  
MARCH 28, 2023 AT 9:00 A.M.**

I HEREBY CERTIFY THAT THE AGENDA FOR THE ABOVE STATED MEETING WAS POSTED AT A LOCATION FREELY ACCESSIBLE TO MEMBERS OF THE PUBLIC AT THE NAPA COUNTY ADMINISTRATIVE BUILDING, 1195 THIRD STREET, NAPA, CALIFORNIA ON FRIDAY, MARCH 10, 2023 BY 5:00 P.M. A HARDCOPY SIGNED VERSION OF THE CERTIFICATE IS ON FILE WITH THE CLERK OF THE BOARD OF SUPERVISORS AND AVAILABLE FOR PUBLIC INSPECTION.

Neha Hoskins (By e-signature)

NEHA HOSKINS, Clerk of the Board





# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0399

---

**TO:** Board of Supervisors  
**FROM:** David Morrison - Interim County Executive Officer  
**REPORT BY:** Anthony Williams - Deputy Clerk of the Board II  
**SUBJECT:** Approval of Minutes

---

### **RECOMMENDATION**

Clerk of the Board requests approval of minutes from the February 28, 2023 regular meeting.

### **EXECUTIVE SUMMARY**

Clerk of the Board requests approval of minutes.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No  
County Strategic Plan pillar addressed: Collaborative and Engaged Community

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Clerk of the Board requests approval of minutes from the February 28, 2023 regular meeting.



## Meeting Minutes

### Napa County Board of Supervisors

Joelle Gallagher, District 1  
Ryan Gregory, District 2  
Anne Cottrell, District 3  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

\* This is a simultaneous meeting of the Board of Supervisors of Napa County, Napa County Public Improvement Corporation, Silverado Community Services District, Monticello Public Cemetery District, In-Home Support Services Public Authority of Napa County, Lake Berryessa Resort Improvement District, Napa Berryessa Resort Improvement District, Napa County Housing Authority, and the Napa County Groundwater Sustainability Agency.

[www.countyofnapa.org](http://www.countyofnapa.org)

---

**Tuesday, February 28, 2023**

**9:00 AM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

---

**8:00 AM Special Meeting  
\*Consolidated**

1. **CALL TO ORDER; ROLL CALL**

**Present: Chair Belia Ramos, Supervisors Anne Cottrell, Joelle Gallagher, and Ryan Gregory. Supervisor Alfredo Pedroza was excused. The meeting was called to order by Chair Belia Ramos.**

2. **PLEDGE OF ALLEGIANCE**

**Auditor-Controller Tracy Schulze led the assembly in the Pledge of Allegiance.**

3. **APPROVAL OF MINUTES**

- A. Clerk of the Board requests approval of minutes from the February 7, 2023 special meeting.

**[23-0285](#)**

**One (1) person spoke during public comment.**

**Clerk of the Board Neha Hoskins responded to the public comment.**

**Motion Text: Approve Minutes.**

**Voting Yes: Gallagher, Gregory, Cottrell, and Ramos**

**Excused: Pedroza**

**Recusals: None**

**Result: Passed**

## 4. PRESENTATIONS AND COMMENDATIONS

- A. Interim County Executive Officer and Risk and Emergency Services [23-0101](#)  
Manager recommend the Board of Supervisors receive a presentation from the County's Excess Insurance Coverage and Services Provider, PRISM.

**Risk Manager Kerry Whitney made presentation.**

**Chief Executive Officer of PRISM Gina Dean made presentation.**

**Chief Member Services Officer of PRISM Rick Brush made presentation.**

**Discussion held.**

## 5. DEPARTMENT HEAD REPORTS AND ANNOUNCEMENTS

**Chair Belia Ramos introduced new County Counsel Sheryl Bratton.**

**Director of Housing & Homeless Services Jennifer Palmer presented a portion of a video on Napa County's Farmworker Housing Centers. The video can be watched in its entirety on the Napa County Housing Authority webpage at <https://www.countyofnapa.org/467/Housing-Authority>.**

**Discussion held.**

## 6. CONSENT ITEMS - SPECIAL DISTRICTS

**Motion Text: Approve the Special Districts Consent Calendar as amended.**

**Voting Yes: Gregory, Gallagher, Cottrell, and Ramos**

**Excused: Pedroza**

**Recusals: None**

**Result: Passed**

Napa County Groundwater Sustainability Agency

[23-0323](#)

- A. Interim Director of Planning, Building & Environmental Services requests approval of a Budget Adjustment increasing both revenue and appropriations by \$157,000 in the Groundwater Sustainability Agency (Fund 2720, Org 2720000, Object 48200 and 52310) to cover increased expenditures associated with the implementation of the Groundwater Sustainability Plan, offset by transfer-in revenue from Appropriation from Contingency (Fund 1000, Org 1059000, Object 58100) (4/5 vote required).

**Item pulled for discussion. See item 8.**

## Lake Berryessa Resort Improvement District

- B. District Engineer requests approval of a Budget Transfer increasing appropriations in the District operations budget (Fund 5220, Organization 5220000, Object 52490) from its available fund balance in the amount of \$40,000 to cover the cost of continued operations and maintenance expenses through the end of the fiscal year (4/5 vote required). [23-0244](#)

**Item pulled for discussion. See item 8.**

## Monticello Public Cemetery District

- C. Director of Public Works requests approval of a Budget Transfer for landscaping and drainage projects increasing appropriation by \$20,000 in Landscaping Services (Fund 2860, Org 2860000, Object 52340) from use of available fund balance in order to blade entire cemetery grounds, \$9,000; refurbish plaque entrance area, \$5,000; repair erosion at Spanish Flat Water District water connection and utility boxes at cemetery's southeastern corner, \$2,000; and provide funds for unanticipated costs, \$4,000 (4/5 vote required). [23-0268](#)

## Silverado Community Services District

- D. Director of Public Works requests approval of a Budget Transfer increasing appropriations by \$30,000 in Landscaping Services (Fund 2850, Org 2850000, Object 52340) offset by use of available fund balance, to upgrade the irrigation system in traffic islands 1-5 located at the main entrance to the Silverado Resort and SCSD residential area beginning at the intersection of Monticello Road and Atlas Peak Drive, and for unanticipated costs for the remainder of FY23 (4/5 vote required). [23-0264](#)

## 7. CONSENT ITEMS

**Motion Text:** Approve the Consent Calendar as amended.  
**Voting Yes:** Gallagher, Gregory, Cottrell, and Ramos  
**Excused:** Pedroza  
**Recusals:** None  
**Result:** Passed

## Auditor-Controller

- A. Auditor-Controller requests the Board to accept and instruct the Clerk of the Board to file the quarterly report of donations received for the quarter ended December 31, 2022. [23-0234](#)

## County Counsel

- B. Adoption of an ordinance amending Title 2 (Administration and Personnel), Chapter 2.100 (Personnel), Article III (Terms of Employment) by adding new language to Section 2.100.180 (Appointments) of the Napa County Code regarding limited-term appointments. [23-0258](#)
- Enactment No: O-1480**
- C. County Counsel requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 210390B with the law firm of Rimón P.C., increasing the maximum compensation from \$10,000 to \$25,000 per fiscal year and extending the term to June 30, 2024, with two automatic renewals at the end of each fiscal year, for the provision of specialized legal services related to third-party bankruptcy actions. [23-0287](#)
- Enactment No: A-210390B Amend. 1**
- D. County Counsel requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 210364B with Renne Public Law Group to revise the scope of work and increase the maximum compensation to \$450,000 for fiscal year 2022-2023, after which the maximum compensation will revert to \$275,000 per fiscal year, for the provision of litigation services related to code enforcement and juvenile dependency appeals. [23-0325](#)
- Enactment No: A-210364B Amend. 2**
- E. County Counsel requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 220264B with the law firm Aleshire & Wynder, LLP to increase the maximum compensation from \$79,000 per fiscal year to \$200,000 per fiscal year for the provision of specialized legal services related to code enforcement. [23-0338](#)
- Enactment No: A-220264B Amend. 2**

## County Executive Office

- F. Interim County Executive Officer requests the reappointment of Charles Burton and Michael Sipiora to represent Public At Large on the Napa County Wildlife Conservation Commission (WCC) with the terms of office to commence immediately and expire February 1, 2026. [23-0247](#)
- G. Interim County Executive Officer requests the appointment of Heather Stanton to serve on the Napa County Commission on Aging as a Commissioner Emeritus for an indefinite term. [23-0248](#)

- H. Interim County Executive Officer requests authorization for out of state travel for Chair Belia Ramos and Supervisor Alfredo Pedroza to Washington, D.C. from March 26, 2023 to March 29, 2023, as part of the Metropolitan Transportation Commission/Association of Bay Area Governments (MTC/ABAG) Advocacy Trip to meet with Congressional delegates on transportation and housing issues and lobby for funding at no cost to Napa County. [23-0290](#)

**Item pulled for discussion. See Item 8.**

- I. Interim County Executive Officer requests the adoption of a Resolution, pursuant to Section 9314 of the Public Resources Code, to appoint Karen Turjanis to the Napa County Resource Conservation District (RCD) Board of Directors in lieu of holding an election to fill an unexpected vacancy. The terms of office are to commence immediately and expire at noon on November 27, 2024. (RCD Resolution attached) [23-0303](#)

**Enactment No: R-2023-28**

- J. Interim County Executive Officer requests the appointment of Ervin Hechavarria to the Napa County Airport Advisory Commission to fill a term representing Local Chamber of Commerce. The term of office shall commence immediately and expire on September 17, 2025. [23-0326](#)

- K. Interim County Executive Officer requests approval of and authorization for the Chair to take the following actions: [23-0332](#)
1. Sign Amendment No. 1 to Agreement No. A-230216B with H2O Partners, Inc increasing the maximum compensation from \$76,440 to a maximum of \$276,440 for the period of January 10, 2022 through December 30, 2023 for grant management services; and
  2. Sign Agreements No. 230257B with Bennett Engineering Services, Inc; Agreement No. 230258B with BKF Engineers; Agreement No. 230260B with Witt O'Brien's LLC for a maximum compensation of \$200,000 each for the term January 10, 2023 to December 30, 2023 for grant management services.

**Item pulled for discussion. See Item 8.**

**Enactment No: A-230216B Amend. 1; A-230257B; A-230258B; A-230260B**

Housing & Homeless Services – Division of CEO's Office

- L. Director of Housing & Homeless Services requests approval of and authorization for the Chair to sign Amendment No. 2 to Master Services Agreement No. 220376B with Partnership Health Plan to include all applicable Exhibits and Attachments for an expiration date extension through December 2023 and up to \$750,000 in estimated yearly revenue. [22-2313](#)

**Enactment No: A-220376B Amend. 2**

## Human Resources – Division of CEO’s Office

- M. Director of Human Resources requests adoption of a Resolution approving an adjustment to the Chief Deputy District Attorney classification, effective December 24, 2022. [23-0296](#)

**Enactment No: R-2023-29**

- N. Director of Human Resources and Director of Health and Human Services Agency (HHSA) request adoption of a Resolution amending the Departmental Allocation List for multiple divisions of the Health and Human Services Agency, with a net increase of six 1.0 FTE, and no impact to the County General Fund. [23-0300](#)

**Enactment No: R-2023-30**

- O. Director of Human Resources and Director of Health & Human Services Agency (HHSA) request adoption of a Resolution amending the Table and Index of Classes to reflect the addition of a new Forensic Mental Health Counselor - Registered classification, effective March 4, 2023. [23-0312](#)

**Enactment No: R-2023-31**

- P. Director of Human Resources and District Attorney request adoption of a Resolution amending the Table and Index of Classes and the Departmental Allocation List for the District Attorney’s Office, by adding one 1.0 full-time equivalent (FTE) Forensic Interviewer - Limited Term, effective March 4, 2023 through March 31, 2025, with a net increase of one FTE, and no impact to the County General Fund. [23-0315](#)

**Enactment No: R-2023-32**

- Q. Director of Human Resources and Interim County Executive Officer request adoption of a Resolution amending the Departmental Allocation List for the Human Resources Division of the County Executive Office, by deleting one 1.0 FTE Senior Human Resources Analyst, adding one 1.0 Staff Services Manager and one 1.0 Staff Services Analyst I/II, effective March 4, 2023, with a net increase of one full-time equivalent, and an impact to the General Fund. [23-0321](#)

**Enactment No: R-2023-33**

## Information Technology Services – Division of CEO’s Office

- R. Chief Information Officer requests the following: [23-0181](#)
1. Declare certain items of personal property as surplus and no longer required for public use; and
  2. Authorize the Purchasing Agent to dispose of these items of personal property by donating them to Computer for Classrooms.

## Library

- S. Director of Library Services and Community Outreach requests the following: [23-0280](#)
1. Acceptance of a donation in the amount of \$3,400 from the Robert and Ellen Streich Family Endowment for the Adult Literacy Program; and
  2. Authorization for the Chair to sign a letter of appreciation in acceptance of the donation.

## Planning, Building and Environmental Services (PBES)

- T. Interim Director of Planning, Building and Environmental Services requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 220141B with BPR Consulting to perform building plan check services, increasing compensation by \$100,000 for a new maximum of \$250,000 per fiscal year. [23-0198](#)

**Enactment No: A-220141B Amend. 2**

## Public Works

- U. Director of Public Works requests the following actions: [23-0051](#)
1. Approval of and authorization for the Chair to sign Amendment No. 4 to Agreement No. 210301B with ADKO Engineering (ADKO) increasing maximum compensation by \$48,620 for a new maximum of \$546,674 adding Dry Creek MPM 9.75 Storm Slide Repair to their scope;
  2. Approval of a Budget Transfer for the following (4/5 vote required):
    - a. Increase appropriation by \$48,620 in the Measure T Non-Operating Special Revenue Fund (Fund 2440, Org 1220053, Object 56100) with the use of its available fund balance to be transferred to Project S7312 (Dry Creek Road MPM 9.75, Fund 2040, Org 2040500, Object 48200); and
    - b. Increase appropriation by \$48,620 in Project S7312 (Dry Creek Road MPM 9.75, Fund 2040, Org 2040500, Object 52360) budget offset by a transfer-in revenue from the Measure T Non-Operating Special Revenue Fund.

**Enactment No: A-210301B Amend. 4**

- V. Director of Public Works requests approval of and authorization for the Chair to sign Agreement No. 230333B with Geocon Consultants, Inc., for a maximum of \$370,225 for the term January 31, 2023, through June 30, 2025, for geotechnical exploration, testing, and special inspection services as part of the construction process for the Napa County Replacement Detention Facility. [23-0102](#)

**Enactment No: A-230333B**



- W. Director of Public Works and Director of Library Services and Community Outreach request approval of and authorization for the Chair to sign Space License Agreement No. 230300B with the Friends of the Calistoga Library, Inc. ("Friends") for the term commencing on February 28, 2023 and continuing for 10 years, for no cost, allowing the Friends to use space within the Calistoga Library Staff Workroom, located at 1108 Myrtle St., Calistoga, as available, for the storage and sorting of books and materials related to the book sales of the Friends. [23-0146](#)

**Enactment No: A-230300B**

- X. Director of Public Works requests approval of the following Budget Transfer regarding the 2023 Lake Berryessa Improvements Paving Project, including Steele Canyon Road Paving (4/5 vote required): [23-0206](#)
1. Increase appropriations by \$50,000 in Accumulated Capital Outlay Fund (ACO) (Fund 3000, Org 3000000, Object 56100) with the use of its available fund balance to be transferred to Project 23027 (Steele Canyon Road Paving, Fund 2040, Org 2040500, Object 48200); and
  2. Creation of a new Roads Capital Improvement Project for Steele Canyon Road (Fund 2040, Org 2040500, Project 23027) and increase appropriations by \$50,000 in Project 23027 (Fund 2040, Org 2040500, Object 52360) budget offset by a transfer-in revenue from the ACO.

- Y. Director of Public Works and Director of Library Services and Community Outreach request approval and authorization for the Chair to sign a Space License Agreement No. 230311B with the Friends of the American Canyon Library, Inc. ("Friends") for the term commencing on February 28, 2023, and continuing for 10 years, for no cost, allowing the Friends to use the American Canyon Library Community Room, located at 300 Crawford Way, American Canyon, for storage of books and, contingent on availability, for book sales. [23-0211](#)

**Enactment No: A-230311B**

- Z. Director of Public Works requests approval of and authorization for the Chair to sign the following agreements with Miller Pacific Engineering Group (MPEG): [23-0233](#)
1. Agreement No. 230309B for a maximum of \$239,392 for the term February 28, 2023, through June 30, 2025, for the Dry Creek Road MPM 11.6 Slide Repair project, RDS 23-20;
  2. Agreement No. 230322B for a maximum of \$197,968 for the term February 28, 2023, through June 30, 2025, for the Mt. Veeder MPM 3.75 Slide Repair project, RDS 23-22; and
  3. Agreement No. 230321B for a maximum of \$198,755 for the term February 28, 2023, through June 30, 2025, for the Steele Canyon Road MPM 6.4 Slide Repair project, RDS 23-27.

**Enactment No: A-230309B; A-230321B, A-230322B**

AA. Director of Public Works requests approval of and authorization for the Chair to sign amendments to six (6) Professional Service Agreements, listed below, increasing maximum compensation per agreement by \$25,000 to a new fiscal year maximum amount of \$50,000, to perform as-needed tree trimming and removal services within the boundaries of Napa County:

[23-0237](#)

1. Amendment No. 2 to Agreement No. 200026B with Bay Area Tree Specialists;
2. Amendment No. 1 to Agreement No. 200115B with A Plus Tree Inc;
3. Amendment No. 1 to Agreement No. 200116B with Arborist Now Inc, doing business as Arborist Now;
4. Amendment No. 1 to Agreement No. 200024B with Arboricultural Specialties Inc., doing business as The Professional Tree Care Company;
5. Amendment No. 1 to Agreement No. 200025B with West Coast Arborists, Inc., doing business as WCA; and
6. Amendment No. 1 to Agreement No. 200117B with Britton Tree Services Inc.

**Enactment No: A-200026B Amend. 1; A-200115B Amend. 1; A-200116B Amend. 1; A-20024B Amend. 1; A-200025B Amend. 1; A-200117B Amend. 1**

AB. Director of Public Works requests adoption of a Resolution temporarily closing portions of Silverado Trail, Oak Knoll Avenue, Big Ranch Road, and El Centro Avenue from 7:00 A.M. to 1:30 P.M. on Sunday, March 5, 2023, for the 44th Annual Kaiser Permanente Napa Valley Marathon.

[23-0281](#)

**Enactment No: R-2023-34**

AC. Director of Public Works requests the following (4/5 vote required):

[23-0298](#)

1. Declare certain capital asset vehicles as surplus and no longer required for public use;
2. Authorize the Auditor-Controller to remove these surplus assets from the capital asset listing; and
3. Authorize the sale of capital asset surplus vehicles and equipment at public auction.

AD. Director of Public Works requests the following actions for the Dry Creek Road Bridge Replacement Project:

[23-0317](#)

1. Approval and authorization for the Chair to sign Purchase and Sale Agreement No. 230226B with Anna M. Baker, Melissa R. Baker and Mercedes C. Baker, as Trustees of the Karen Louise Baker Bypass Trust, for the value of \$600 (Assessor's Parcel Number 027-530-003);
2. Approval and authorization for the Chair to sign Purchase and Sale Agreement No. 230263B with Terry Herlihy, Mark Herlihy, Dan Herlihy and Lisa Carlson, Successor Trustees, for the value of \$4,300 (Assessor's Parcel Number 027-330-017);
3. Approval of and authorization for the Chair to sign Amendment No. 4 to Agreement No. 170635B with Biggs Cardosa Associates, Inc. (BCA) to increase maximum compensation by \$525,362, for a new maximum of \$2,034,472 for additional engineering services; and
4. Approval of a Budget Transfer for the following (4/5 vote required):
  - a. Increase appropriations by \$600,000 in the Accumulated Capital Outlay (ACO) Fund (Fund 3000, Org 3000000, Object 56100) with the use of its available fund balance to transfer to Project 14009 (Fund 2040, Org 2040500, Object 48200); and
  - b. Increase appropriations by \$600,000 in the Project 14009 (Fund 2040, Org 2040500, Object 52310) offset by a transfer-in revenue from the ACO.

**Enactment No: A-230226B; A-230263B; A-170635B Amend. 4**

Sheriff

AE. Sheriff requests approval of and authorization for the Chair to sign Agreement No. 230323B with American Medical Response for a maximum of \$15,000 for the term February 28, 2023 through June 30, 2023 to provide Sheriff's Office sworn staff with California Police Officer Standards and Training mandated first aid, cardiopulmonary resuscitation and automated defibrillator training.

[23-0240](#)

**Enactment No: A-230323B**

**8. DISCUSSION OF ITEMS PULLED FROM CONSENT CALENDARS****- 6A**

**Supervisor Anne Cottrell requested information on this item.**

**Planning, Building, and Environmental Services Natural Resources Conservation Manager Jamison Crosby made presentation.**

**Motion Text: Approve requested actions.**

**Voting Yes: Cottrell, Gregory, Gallagher, and Ramos**

**Recusals: None**

**Excused: Pedroza**

**Result: Passed**

**- 6B**

**Supervisor Anne Cottrell requested information on this item.**

**Public Works Engineering Manager Christopher Silke made presentation.**

**Motion Text: Approve requested actions.**

**Voting Yes: Cottrell, Gregory, Gallagher, and Ramos**

**Recusals: None**

**Excused: Pedroza**

**Result: Passed**

**- 7H**

**One (1) person spoke during public comment.**

**- 7K**

**Supervisor Anne Cottrell requested more information on this item.**

**Interim County Executive Officer David Morrison made presentation.**

**County Executive Office Senior Management Analyst Daniel Sanchez made presentation.**

**Discussion held.**

**Motion Text:** Approve requested actions.

**Voting Yes:** Cottrell, Gregory, Gallagher, and Ramos

**Recusals:** None

**Excused:** Pedroza

**Result:** Passed

9. PUBLIC COMMENT

**Two people (2) spoke during public comment.**

10. ADMINISTRATIVE ITEMS - SPECIAL DISTRICTS

**None**

11. ADMINISTRATIVE ITEMS

County Executive Office

A. Interim County Executive Officer requests that the Board:

**[23-0222](#)**

1. Receive a presentation of the five-year budget forecast, Section 115 Trust Fund, and American Rescue Plan Act;
2. Approve mid-year Budget Adjustments per the attached reports; and
3. Authorize the creation of a new non-operating special revenue fund for CARE Court in Fund 2460, Division 24622, Subdivision 20000252 (4/5 vote required).

**Motion Text:** Continue the item to the next regularly scheduled meeting on March 14, 2023.

**Voting Yes:** Gregory, Gallagher, Cottrell, and Ramos

**Excused:** Pedroza

**Recusals:** None

**Result:** Passed

- B. Interim County Executive Officer requests the appointment of Jeffrey Prather or Joe Streng to the Napa County Arts and Culture Advisory Committee to represent County-At-Large, with terms to commence immediately and expire September 30, 2024.

[23-0251](#)

**Motion Text:** Appoint Jeffrey Prather to the Napa County Arts and Culture Advisory Committee to represent County-At-Large.

**Voting Yes:** Gallagher, Gregory, Cottrell, and Ramos

**Excused:** Pedroza

**Recusals:** None

**Result:** Passed

Planning, Building and Environmental Services (PBES)

- C. Interim Director of Planning, Building and Environmental Services (PBES) and County Deputy Fire Chief request adoption of a Resolution amending the Napa County Road and Street Standards (NCRSS) to comply with the adopted State Minimum Fire Safe Regulations, 2021, relating to ingress and egress in the State Responsibility Area (SRA) and Local Responsibility Area (LRA) Very High Fire Hazard Severity Zone (VHFHSZ).

[22-2203](#)

**Interim Assistant Director of Planning, Building, and Environmental Services Patrick Ryan made presentation.**

**Four (4) people spoke during public comment.**

**Discussion held.**

**Direction provided to staff.**

**Motion Text:** Continue the item to a future meeting date.

**Voting Yes:** Gregory, Cottrell, Gallagher, and Ramos

**Excused:** Pedroza

**Recusals:** None

**Result:** Passed

**Enactment No:** R-2021-36

12. SET MATTERS OR PUBLIC HEARING - SPECIAL DISTRICTS

None

13. SET MATTERS OR PUBLIC HEARINGS

None

## 14. LEGISLATIVE ITEMS

None

## 15. BOARD OF SUPERVISORS COMMITTEE REPORTS AND ANNOUNCEMENTS

None

## 16. BOARD OF SUPERVISORS FUTURE AGENDA ITEMS

None

## 17. COUNTY EXECUTIVE OFFICER REPORTS AND ANNOUNCEMENTS

None

## 18. CLOSED SESSION

## A. SET MATTER - 8:00 AM

[23-0083](#)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)

Title: Director of Health and Human Services Agency

**Closed Session not held.**

## B. SET MATTER - 11:30 AM

[23-0202](#)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2): Claims of Minh C. Tran, Claim Nos. 21-241, 23-306 (2 claims).

**Closed session held. No reportable action.**

## C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

[23-0340](#)

(Government Code section 54956.9(d)(1))

Name of case: Napa County v. Mt. Veeder Property LLC, et al.

Napa County Superior Court Case No. 21CV000655

**Closed Session held. No reportable action.**

## 19. ADJOURNMENT

**ADJOURN TO THE BOARD OF SUPERVISORS REGULAR MEETING,  
TUESDAY, MARCH 14, 2023 AT 9:00 A.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, Clerk of the Board



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0366

---

**TO:** Board of Supervisors  
**FROM:** Christine Briceño - Director of Human Resources  
**REPORT BY:** Jeanette Perry - Human Resources Service Specialist  
**SUBJECT:** Introduction of New Employees

---

### **RECOMMENDATION**

Director of Human Resources to introduce new County employees.

### **EXECUTIVE SUMMARY**

Offered once a month, this presentation includes an introduction of the previous month's newly hired employees to the Board.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: N/A

### **BACKGROUND AND DISCUSSION**

New Napa County employees participate in New Hire Enrollment with Human Resources staff on their first day. The new employees complete required paperwork, fingerprinting, safety training, and technology training. Today's introduction to the Board of Supervisors typically occurs in the second month of employment, and offers new employees the opportunity to meet the Board in-person.





# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0385

**TO:** Board of Commissioners  
**FROM:** Jennifer Palmer, Director of Housing & Homeless Services  
**REPORT BY:** Alex Carrasco, Staff Service Analyst  
**SUBJECT:** Housing Authority Budget Adjustment

### **RECOMMENDATION**

Director of Housing & Homeless Services requests approval of a Budget Adjustment to purchase two HVAC systems at the Calistoga Farmworker Center using County Service Area No. 4 available fund balance; and separately accepting a donation for household goods (4/5 vote required):

1. Decrease Available Fund Balance \$43,200 (Fund 2810, Org 2810000, Obj 33100);
2. Increase Transfer Out Appropriation \$43,200 (Fund 2810, Org 2810000, Obj 56100) offset by available fund balance;
3. Increase Transfer In Revenue \$43,200 (Fund 5060, Org 5060501, Obj 48200);
4. Establish two capital assets for a total of \$43,200, which includes the purchase of two HVAC units \$29,600 and \$12,600, and \$1,000 Public Works Construction Contract (Fund 5060, Org 5060501, 55400);
5. Increase Maintenance-Building & Improvement Public Works Charge Appropriation by \$1,000 (Fund 5060, Org 5060501, Obj 52510);
6. Increase Donation Revenue \$19,900 (Fund 5060, Org 5060501, 5060502, 5060503, Obj 47500); and
7. Increase Household Expense Appropriations \$19,900 (Fund 5060, Org 5060501, 5060502, 5060503, Obj 53305).

### **EXECUTIVE SUMMARY**

Today's action will establish two capital assets for a total of \$43,200, which includes an increase to Maintenance Public Works Charge by \$1,000, with offsetting revenue from County Service Area No. 4 fund

balance for collaboration with Public Works on a small construction contract and the purchase of two HVAC systems: one for the dorm units, and a second for the dining area. It will also increase appropriation in Household Expenses by \$19,900, with offsetting revenue by a donation from Cinco de Mayo Golf, Inc, which includes mattresses, mattress covers, shower curtains and gifts for the lodgers.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Housing Authority Fund 5060, and County Service Area No. 4 Fund 2810
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Future fiscal impact:	There will be ongoing maintenance of the equipment.
Consequences if not approved:	The HVAC replacement is necessary for the health and safety of the lodgers.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Today's action will establish two capital assets, increase Maintenance Public Works Charge appropriation, and increase Household Expenses with offsetting revenue from County Service Area 4 (CSA No.4) and a donation from the Cinco de Mayo Golf, Inc. organization.

The appropriation for maintenance and establishment of the capital assets is to replace two HVAC systems at the Calistoga Farmworker Center: one in one of two dormitory areas, and a second in the dining area. Both units are 17 years old. Staff have met with an estimator to assess both units, and replacement is recommended due to their age. Staff have obtained three quotes for replacement, all of which will necessitate a small construction contract through the help of Public Works for oversight and management. Purchase of the units is made possible using \$43,200 of CSA No.4 fund balance. CSA No.4 was created in 2002 by the Board of Supervisors as a mechanism for providing certain miscellaneous extended services pertaining to farmworker housing in the County of Napa.

The appropriation for Household Expenses is to accept a donation \$19,900 worth of mattresses, mattress covers, shower curtains and gifts for the lodgers from the Cinco de Mayo Golf, Inc organization. The Cinco de Mayo Golf, Inc. is a local non-profit organization dedicated to raising funds for the needs of Napa County

farmworkers through an annual Cinco de Mayo Golf Classic.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0412

**TO:** Housing Authority Commissioners  
**FROM:** Jennifer Palmer, Director of Housing & Homeless Services  
**REPORT BY:** Alex Carrasco, Staff Service Analyst  
**SUBJECT:** Housing Authority Budget Adjustment

### **RECOMMENDATION**

Director of Housing & Homeless Services requests approval of Budget Adjustments for increased expense in operating services and supplies, offset by expense savings and Tenant Rent revenue (4/5 vote required):

1. Increase Water Treatment Service Appropriation \$2,000 (Fund 5060, Org 5060501, Obj 52383);
2. Increase Household Expense Appropriation \$12,000 (Fund 5060, Org 5060501, Obj 53305);
3. Increase Utilities - Fire Supp Systems Appropriation \$5,000 (Fund 5060, Org 5060501, Obj 53215);
4. Increase Utilities - Sewer Appropriation \$5,000 (Fund 5060, Org 5060501, Obj 53225);
5. Decrease Other Professional Services Appropriation \$20,000 (Fund 5060, Org 5060503, Obj 52490);
6. Increase Utilities - Fire Supp Systems Appropriation \$5,000 (Fund 5060, Org 5060502, Obj 53215); and
7. Increase Rent - Tenants Revenue \$9,000 (Fund 5060, Org 5060502, Obj 45310).

### **EXECUTIVE SUMMARY**

Today's action will allow for budget amendments for expense increases in water treatment, household expense and various utilities offset by savings in professional services and increased tenant rent revenue.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? Yes

Is it currently budgeted?	No
Where is it budgeted?	Farmworker Centers Fund 5060
Is it Mandatory or Discretionary?	Discretionary
Is the general fund affected?	No
Future fiscal impact:	No future impact
Consequences if not approved:	Budget adjustments necessary for current year operations
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Today's action will allow for budget amendments for expense increases in water treatment, household expense and various utilities offset by savings in professional services and increased tenant rent revenue.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0343

**TO:** Board of Supervisors  
**FROM:** Dina Jose - Director Corrections  
**REPORT BY:** Anabel Silva, Staff Services Analyst  
**SUBJECT:** Renewal Agreement with California DHCS for Medi-Cal County Inmate Program (MCIP)

### **RECOMMENDATION**

Director of Corrections requests approval of and authorization for the Chair to sign the renewal of Agreement No. 170747B (DHCS 23-30036 and 23-MCIPNAPA-28) with the California Department of Health Care Services for a maximum up to \$10,400 per fiscal year for the term July 1, 2023 through June 30, 2026 to participate in the Medi-Cal County Inmate Program.

### **EXECUTIVE SUMMARY**

The Department of Corrections (Corrections) is requesting renewal of an agreement with California Department of Health Care Services to participate in the Medi-Cal County Inmate Program (MCIP) through the term ending June 30, 2026. MCIP enables Corrections to realize reduced inmate medical costs by benefiting from Federal financial participation for eligible inmate medical costs.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Corrections Medical Services Subdivision 14000-04.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	This agreement will allow Corrections to utilize Federal funding to cover inpatient medical costs for Medi-Cal eligible County jail inmates.
Is the general fund affected?	Yes
Future fiscal impact:	Each fiscal year's expenses will be budgeted accordingly.

Consequences if not approved: If the agreement is not approved, Corrections will be unable to access Federal funding for inpatient medical costs for Medi-Cal eligible inmates.

County Strategic Plan pillar addressed: Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Federal law prohibits claiming Medicaid funds for healthcare services provided to inmates residing in correctional facilities. This federal prohibition does not apply when an inmate receives inpatient services at a medical facility located off the grounds of the correctional facility for a stay of more than 24 hours and if the inmate is found to be Medicaid eligible. The affordable Care Act expanded Medicaid eligibility resulting in a large portion of Napa County's inmates being eligible for Medi-Cal, California's Medicaid program. The Medi-Cal County Inmate Program (MCIP) establishes a process for submitting inmate medical claims to the California Department of Health Care Services (DHCS).

MCIP is voluntary and the County has the option to participate in this program by entering into an agreement with DHCS. The purpose of the MCIP agreement is to establish a process to submit claims for Medi-Cal enrolled inmates and to set amounts needed to satisfy the County's responsibility to reimburse DHCS for the nonfederal share of MCIP services costs incurred by DHCS. Staff will continue to work with Queen of the Valley Medical Center and other local medical providers to ensure inmate medical claims are submitted in accordance with MCIP. If the County does not participate in MCIP, Corrections will remain responsible for inpatient medical costs that exceed the contracted limit with Wellpath of \$25,000 per incident. Wellpath provides contracted medical service to inmates incarcerated at the Jail.

Under the agreement with DHCS, Corrections will be responsible for the administrative services costs listed below.

Administrative services cost of :

\$3,182.79 for July 1, 2023 through and including June 30, 2024

\$3,437.41 for July 1, 2024 through and including June 30, 2025

\$3,712.45 for July 1, 2025 through and including June 30, 2026

Approval of Agreement No. 170747B with California Department of Health Care Services for a maximum up to \$10,400 per fiscal year for the term July 1 2023 through June 30, 2026 will allow Corrections to participate in MCIP and use Federal funding for Medi-Cal eligible healthcare costs.





MICHELLE BAASS  
DIRECTOR

State of California—Health and Human Services Agency  
Department of Health Care Services



GAVIN NEWSOM  
GOVERNOR

DATE: February 13, 2023  
TO: County of Napa

SUBJECT: Medi-Cal County Inmate Program (MCIP) Contract No. 23-30036 for Administrative Services and Participation Agreement Contract No. 23-MCIPNAPA-28 Term July 1, 2023 – June 30, 2026.

Enclosed for signature is the MCIP contract for administrative services along with the participation agreement for term July 1, 2023 – June 30, 2026.

The MCIP contracts must be signed by the Contractor's appropriate designee and returned to the Department of Health Care Services (DHCS) **as soon as possible upon receipt of renewal contract materials.**

The requirements for processing the enclosed amendment include the following:

- Obtain a resolution, approved board minutes, order, motion, or ordinance from your County Board of Supervisors, which **specifically** approves and authorizes execution of this contract.
- The individual authorized by the County must sign (in blue ink) two copies of both Agreements. Please ensure that the printed name and title are neatly written/typed into the appropriate boxes on the contracts (ensuring all written information is legible).
- Return the following to DHCS: **\*\*Please do not staple any documents.\*\***
  - **One** copy of resolution, approved board of minutes, order, motion, or ordinance (or authority documentation if signed by someone other than BOS).
  - **Two** originals signed of each Agreement. Only an original with a blue ink, wet signature will be accepted; signature stamps or seals are **not** an acceptable form of signature.
  -
- Send to:

<p><b>Regular Mail &amp; Overnight Mail</b></p> <p><b>Department of Health Care Services</b></p> <p><b>Contracts Division</b></p> <p><b>Attention: Rob Strom</b></p> <p><b>1501 Capitol Avenue, MS 4200</b></p> <p><b>Sacramento, CA 95814</b></p>
--

- Please retain a copy of the documents as a temporary record until such time you receive a copy of the executed Agreements.

State of California—Health and Human Services Agency  
 Department of Health Care Services  
 Medi-Cal County Inmate Program (MCIP)  
**Participation Agreement 23-MCIPNAPA-28**

County Name: Napa

**ARTICLE I – STATEMENT OF INTENT**

The purpose of this Participation Agreement (PA) between the Department of Health Care Services (DHCS) and the County of Napa (County) is to permit the County to voluntarily participate in the Medi-Cal County Inmate Program (MCIP).

**ARTICLE II - AUTHORITY**

This PA is authorized by Welfare and Institutions Code sections 14053.7, 14053.8, and Penal Code section 5072.

**ARTICLE III – TERM AND TERMINATION OF THE AGREEMENT**

1. This PA is effective on July 1, 2023 (date).
2. This PA will remain in effect until terminated by either party pursuant to and in accordance with the requirements and conditions set forth in this PA.
3. Termination Without Cause:

Either party may terminate this PA without cause, and terminate the participation of the County in MCIP by issuing at least a 30 day prior written notification to the other party of the intent to terminate. Notice of termination shall result in the County's immediate withdrawal from MCIP on the termination date and exclusion from further participation in MCIP unless and until such time as the County's participation is reinstated by DHCS in MCIP. The County shall remain obligated to pay for the non-federal share of all MCIP services provided to the County.

4. Termination With Cause:

If the County fails to comply with any of the terms of this PA, DHCS may terminate this PA for cause effective immediately by providing written notice to the County's representative listed in ARTICLE IV. Furthermore, DHCS may terminate this PA for cause if DHCS determines that the County does not meet the requirements for participation in MCIP, the County has not submitted a valid reimbursement claim, or that the County is unable to certify that the claims are eligible for federal funds. Termination for cause will result in the County's immediate withdrawal and exclusion from further participation in the MCIP.

**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28  
County: Napa**

The conviction of an employee, subcontractor, or authorized agent of the County, or of an employee or authorized agent of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal applicant or beneficiary, or abuse of the Medi-Cal Program, shall result in the exclusion of that employee, agent, or subcontractor, or employee or agent of a subcontractor, from participation in MCIP. Failure of the County to exclude a convicted individual from participation in MCIP shall constitute a breach of this agreement for which DHCS may terminate this PA.

DHCS may terminate this PA in the event that DHCS determines that the County, or any employee or contractor working with the County has violated the laws, regulations or rules governing MCIP.

In cases where DHCS determines in its sole discretion that the health and welfare of Medi-Cal beneficiaries or the public is jeopardized by continuation of this PA, this PA shall be terminated effective the date that DHCS made such determination. After termination of the PA, any overpayment must be returned to DHCS pursuant to Welfare and Institutions Code sections 14176 and 14177.

Finally, this PA will terminate automatically upon the termination of the County's MCIP Administrative Service Agreement.

#### **ARTICLE IV – PROJECT REPRESENTATIVES**

Anabel Silva, Staff Services Analyst  
County of Napa  
1125 Third Street  
Napa, CA 94559

Uma De Silva, Chief  
County-Based Claiming and Inmate Services Section  
Telephone: (916) 345-7934  
Fax: (916) 324-0738  
E-Mail: [Uma.DeSilva@dhcs.ca.gov](mailto:Uma.DeSilva@dhcs.ca.gov)

Direct all inquiries and notices to:

Inmates Medi-Cal Claiming Unit  
Local Governmental Financing Division  
1501 Capitol Ave., MS 2628  
P.O. Box 997436  
Sacramento, CA 95899-7436  
Telephone: (916) 345-7895  
E-Mail: [DHCSIMCU@dhcs.ca.gov](mailto:DHCSIMCU@dhcs.ca.gov)

Any notice, request, demand or other communication required or permitted hereunder, shall be deemed to be properly given when delivered to the project representatives identified above.



**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28**  
**County: Napa**

**ARTICLE V – PAYMENT TERMS AND INVOICING**

1. The County shall compensate DHCS for the County's apportioned share of the nonfederal share of MCIP services listed in Article VII, as required by Welfare and Institutions Code sections 14053.7 and 14053.8, Government Code sections 26605.6, 26605.7, and 26605.8, and Penal Code 5072 within 60 days of receipt of an invoice from DHCS, which specifies both the total federally claimable cost and the nonfederal share of the total cost, for payments DHCS has made to providers. The DHCS invoice shall not contain and the County shall not compensate DHCS for MCIP services provided by Medi-Cal providers where the County incurs the cost of providing MCIP services and claims them through the CPE process as outlined specifically for Designated Public Hospitals (DPHs). The County shall not reimburse DHCS for the nonfederal share of services as Certified Public Expenditures (CPEs) of DPHs.
2. DHCS shall submit to the County a quarterly invoice for MCIP services that identifies the nonfederal share amount, and a report that contains information regarding paid claims data for the quarter, including information identifying the provider of services and the beneficiary, the recipient aid code, and amount of reimbursement, and other information that may be agreed to between the parties.

If after comparing its owed nonfederal share to payments actually made, the County has overpaid DHCS, and the amount is undisputed DHCS shall refund the overpayment to the County within 180 days of receipt of an invoice containing the same information from the County. This refund may be made by offsetting the amount against the County's next quarterly payment due to DHCS.

3. DPHs, in MCIP participating counties may submit claims and follow the CPE process which includes a pricing methodology established on an annual basis. These DPHs are paid using Federal Financial Participation (FFP) only.

**ARTICLE VI – COUNTY RESPONSIBILITIES**

1. Except as provided in subdivision (f.) of this section, the County is responsible for reimbursing DHCS for the nonfederal share of MCIP services paid by DHCS.
  - a. The County may pay a Medi-Cal provider to the extent required by or otherwise permitted by state and federal law to arrange for services for Medi-Cal beneficiaries. Such additional amounts shall be paid entirely with county funds, and shall not be eligible for Social Security Act Title XIX FFP.
  - b. If DHCS pays the Medi-Cal provider more than what the County would have paid for services rendered, the County cannot request and receive the difference from the Medi-Cal provider.
  - c. If the County would have paid the Medi-Cal provider less than what DHCS paid the Medi-Cal provider, the County is still obligated to reimburse DHCS for the nonfederal share of DHCS' payment for the MCIP services.

**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28**  
**County: Napa**

- d. In the event that FFP is not available for any MCIP service claimed pursuant to this PA, the County shall be solely responsible for arranging and paying for the MCIP service.
  - e. If the Centers for Medicare & Medicaid Services (CMS) determines an overpayment has occurred including the application of any federal payment limit that reduces the amount of FFP available then DHCS shall seek the overpayment amount from the provider, return the collected FFP to CMS, and return the collected nonfederal share to the County. In the event that DHCS cannot recover the overpayment from the Medi-Cal provider, the County shall pay DHCS an amount equal to the FFP portion of the unrecovered amount to the extent that Section 1903(d)(2)(D) of the Social Security Act is found not to apply.
  - f. The County is not responsible for reimbursing DHCS for the nonfederal share of expenditures for MCIP services provided by DPHs when those services are reimbursed under the CPE process because DHCS is not responsible for the nonfederal share of expenditures for MCIP services reimbursed in the CPE process.
2. If CMS determines DHCS claimed a higher Federal Medical Assistance Percentage (FMAP) rate than is allowed and FFP is reduced by CMS then the County shall hold DHCS harmless for the return of the FFP to CMS.
  3. Upon the County's compliance with all applicable provisions in this PA and applicable laws, the County may send its MCIP-eligible beneficiaries to Medi-Cal providers to receive MCIP services.
  4. The County understands and agrees that the overall nature of the medical facilities in which an inmate receives medical services must be one of community interaction such that members of the general public may be admitted to receive services and admission into the medical facility or into specific beds within the facility is not limited to individuals under the responsibility of a correctional facility, and that inmates are admitted to specific medical units not based on their status as inmates of a correctional institution, but rather on their treatment needs and plan of care.
  5. Ensure that an appropriate audit trail exists within records and accounting system and maintain expenditure data as indicated in this PA.
  6. The County agrees to provide to DHCS or any federal or state department with monitoring or reviewing authority, access and the right to examine its applicable records and documents for compliance with relevant federal and state statutes, rules and regulations, and this PA.
  7. In the event of any federal deferral or disallowance applicable to MCIP expenditures, the County shall provide all documents requested by DHCS within 14 days.
  8. The County shall assist with the completion and delivery of completed Medi-Cal applications to the County Welfare Department within 90 days after the date of admission



**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28**  
**County: Napa**

of the beneficiary to a Medi-Cal provider off of the grounds of the County correctional facility resulting in an expected stay of more than 24 hours.

9. As a condition of participation in MCIP, and in recognition of revenue generated by MCIP, the County shall pay annual administrative costs directly to DHCS.
  - a. The annual administrative costs payment shall be used to cover DHCS' administrative costs associated with MCIP, including, but not limited to, claims processing, technical assistance, and monitoring. DHCS shall determine and report staffing requirements upon which projected costs will be based.
  - b. The amount of the administrative costs shall be based upon the anticipated state salaries, benefits, operating expenses, and equipment necessary to administer MCIP and other costs related to that process.
  - c. The County shall enter in to a separate agreement with DHCS to reimburse DHCS for the administrative costs of administering MCIP.

**ARTICLE VII – DHCS RESPONSIBILITIES**

1. DHCS shall pay the appropriate Medi-Cal fee-for-service rate to Medi-Cal providers that directly bill DHCS for MCIP services rendered to the County's MCIP eligible beneficiaries and seek FFP for these service claims. DHCS shall be responsible to pay such Medi-Cal providers only to the extent the County commits to reimburse DHCS for the nonfederal share of all federally reimbursable MCIP claims and for which FFP is available and obtained by DHCS for the MCIP service claims.
2. DHCS shall maintain accounting records to a level of detail which identifies the actual expenditures incurred for MCIP services, the services provided, the county responsible, the specific MCIP-eligible beneficiary treated, the MCIP-eligible beneficiaries aid code, and the specific provider billing.
3. DHCS shall submit claims in a timely manner to CMS to draw down FFP and shall distribute FFP for all eligible claims.
4. DHCS shall:
  - a. Ensure that an appropriate audit trail exists within records and accounting system and maintain expenditure data as indicated in this PA.
  - b. Designate a person to act as liaison with the County concerning issues arising under this PA. This person shall be identified to the County's contact person for this PA.
  - c. Provide a written response by email or mail to the County's contact person within 30 days of receiving a written request for information related to MCIP.

**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28**  
**County: Napa**

- d. With each quarterly cost invoice, provide a paid claim analysis report to the County regarding MCIP claims submitted by providers for the County's MCIP-eligible beneficiaries. This analysis shall be used to determine the amount of the non-federal share that the County is obligated to pay under this PA.
5. Should the services to be performed under this PA conflict with DHCS' responsibilities under federal Medicaid law, those responsibilities shall take precedence.
6. DHCS' cessation of any activities due to federal Medicaid responsibilities does not relinquish the obligation of the County to reimburse DHCS for MCIP services incurred by DHCS in connection with this PA for periods in which the County participated in MCIP.
7. DHCS agrees to provide to the County, or any federal or state department with monitoring or reviewing authority, access and the right to examine its applicable records and documents for compliance with relevant federal and state statutes, rules and regulations, and this PA.

**ARTICLE VIII – FISCAL PROVISIONS**

1. DHCS will invoice the County quarterly at the address indicated in ARTICLE IV. Each invoice shall include the agreement number and supporting documentation for the previous quarter's paid claims.
2. Counties are required to sign and submit the MCIP Certification and Hold Harmless by an authorized county representative to DHCS annually to ensure the County is providing efficient oversight of federal expenditures.

**ARTICLE IX – BUDGET CONTINGENCY CLAUSE**

1. It is mutually agreed that if the State Budget Act of the current State Fiscal Year (SFY) and any subsequent SFYs covered under this PA does not provide sufficient funds for MCIP, this PA shall be of no further force and effect. In this event, the DHCS shall have no liability to pay any funds whatsoever to the County or to furnish any other considerations under the PA and the County shall not be obligated to perform any provisions of this PA.
2. If funding for any SFY is reduced or deleted by the State Budget Act for purposes of MCIP, DHCS shall have the option to either cancel this PA, with no liability occurring to DHCS, or offer an agreement amendment to the County to reflect the reduced amount.

**ARTICLE X – LIMITATION OF STATE LIABILITY**

1. In the event of a federal audit disallowance, the County shall cooperate with DHCS in replying to and complying with any federal audit exception related to MCIP. The County shall assume sole financial responsibility for any and all federal audit disallowances related to the rendering of services under this PA. The County shall assume sole financial responsibility for any and all penalties and interest charged as a result of a federal audit



**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28  
County: Napa**

disallowance related to the rendering of services under this PA. The amount of the federal audit disallowance, plus interest and penalties shall be payable on demand from DHCS.

2. To the extent that a federal audit disallowance and interest results from a claim or claims for which the Medi-Cal provider has received reimbursement for MCIP services under this PA, DHCS shall recoup from the Medi-Cal provider, upon written notice of 60 days after the completion of an audit or other examination that results in the discovery of an overpayment per Welfare and Institutions Code section 14172.5), amounts equal to the amount of the disallowance and interest in that state fiscal year for the disallowed claim, less the amounts already remitted to or recovered by DHCS.

**ARTICLE XI – AMENDMENT**

1. This PA and any exhibits attached hereto, along with the MCIP Administrative Agreement shall constitute the entire agreement among the parties regarding MCIP and supersedes any prior or contemporaneous understanding or agreement with respect to MCIP and may be amended only by a written amendment to this PA.
2. Changes to the project representatives may be made via written communication including email by either party and shall not constitute a formal amendment to the PA.

**ARTICLE XII – GENERAL PROVISIONS**

1. None of the provisions of this PA are or shall be construed as for the benefit of, or enforceable by any person not a party to this PA.
2. The interpretation and performance of this PA shall be governed by the State of California. The venue shall lie only in counties in which the California Attorney General maintains an office.

DHCS and the County shall maintain and preserve all records relating to this PA for a period of three years from DHCS' receipt of the last payment of FFP or until three years after all audit findings are resolved, whichever is later. This does not limit any responsibilities held by DHCS or the County provided for elsewhere in this PA, or in state or federal law.

**ARTICLE XIII – INDEMNIFICATION**

It is agreed that the County shall defend, hold harmless, and indemnify DHCS, its officers, employees, and agents from any and all claims liability, loss or expense (including reasonable attorney fees) for injuries or damage to any person or property which arise out of the terms and conditions of this PA and the negligent and intentional acts or omissions of the County, its officers, employees, or agents.

**ARTICLE XIV – AVOIDANCE OF CONFLICTS OF INTEREST**



**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28**  
**County: Napa**

The County is subject to compliance with the Medi-Cal Conflict of Interest Law, as applicable and set forth in Welfare and Institutions Code section 14022, and Article 1.1 (commencing with Welfare and Institutions Code section 14047), and implemented pursuant to 22 California Code of Regulations, section 51466.

**ARTICLE XV – CONFIDENTIALITY**

The County shall comply with the applicable confidentiality requirements as specified in Section 1902(a)(7) of the Social Security Act; 42 Code of Federal Regulations, part 431.300; Welfare and Institutions Code section 14100.2; and 22 California Code of Regulations, section 51009; and, the Business Associates Agreement hereby incorporated by reference.

**ARTICLE XVI – ALTERNATIVE FORMATTING**

1. The County assures the state that it complies with the ADA, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
2. County will ensure that deliverables developed and produced pursuant to this Agreement comply with federal and state laws, regulations or requirements regarding accessibility and effective communication, including the Americans with Disabilities Act (42 U.S.C. § 12101, et. seq.), which prohibits discrimination on the basis of disability, and section 508 of the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794 (d)). Specifically, electronic and printed documents intended as public communications must be produced to ensure the visual-impaired, hearing-impaired, and other special needs audiences are provided material information in the formats needed to provide the most assistance in making informed choices. These formats include but are not limited to braille, large font, and audio.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**Medi-Cal County Inmate Program Participation Agreement 23-MCIPNAPA-28  
County: Napa**

The signatories to this PA warrant that they have full and binding authority to the commitments contained herein on behalf of their respective entities.

County Name: \_\_\_\_\_

\_\_\_\_\_  
Name of Authorized Representative

(Person legally authorized to bind contracts for the County)

\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized  
Representative

\_\_\_\_\_  
Date

**STATE OF CALIFORNIA – DEPARTMENT OF HEALTH CARE SERVICES**

\_\_\_\_\_  
Signature of the DHCS Authorized Representative

\_\_\_\_\_  
Typed or Printed Name of the DHCS Authorized Representative

\_\_\_\_\_  
Typed or Printed Title of the DHCS Authorized Representative

\_\_\_\_\_  
Date

Approved as to form:  
Napa County Counsel  
Dated: 3/1/2023

/s/ Corey S. Utsurogi  
Corey S. Utsurogi, Deputy

## MEDI-CAL COUNTY INMATE PROGRAM AGREEMENT FOR ADMINISTRATIVE SERVICES

### 1. Intent of Agreement

This Reimbursement for Administrative Costs for the Medi-Cal Inmate Program (MCIP) Agreement (Agreement) is intended to reimburse the California Department of Health Care Services (DHCS) for its administrative costs associated with the MCIP as further detailed below and in Schedule A attached hereto.

### 2. Parties

The parties to this Agreement are DHCS and the County of Napa (County).

### 3. Authority

- A. DHCS is the single state agency responsible for administering the California Medical Assistance Program (Medi-Cal), including MCIP, pursuant to Welfare and Institutions Code section 14100.1.
- B. This Agreement is authorized by Welfare and Institutions Code sections 14053.7 and 14053.8 and Penal Code section 5072.

### 4. Term of the Agreement

The term of this Agreement shall be from July 1, 2023 through and including June 30, 2026.

### 5. Definitions

- A. The term "Certified Public Expenditure Process" or "CPE Process" means the process established for Medi-Cal under state law (including but not limited to Welfare and Institutions Code section 14166.1, et seq.), the California Medi-Cal State Plan, and approved Medicaid demonstration projects and waivers through which public Medi-Cal providers claim Federal Financial Participation (FFP) for allowable expenditures.
- B. The term "days" as used in this Agreement shall mean calendar days unless specified otherwise.
- C. The term "Demonstration Project" means the California Medi-Cal 2020 Demonstration, Number 11-W-00193/9, as approved by CMS effective beginning December 30, 2015 and any successor demonstration projects.

- D. The term "Designated Public Hospital" is defined as set forth in the Demonstration Project, and codified in state law at Welfare and Institutions Code section 14184.10, subdivision (f) pursuant to SB 815 (2016), and may be modified from time to time.
- E. The term "Inmate" as used in this Agreement includes persons identified in Welfare and Institutions Code sections 14053.7(e)(2)(A) and 14053.8(k) "Juvenile Inmate," and Government Code sections 26605.6(a) "Prisoner," 26605.7(a) "Prisoner" and (d)(1) "Probationer," and 26605.8 "Prisoner" and "Probationer."
- F. The term "MCIP" or "Medi-Cal County Inmate Program" contains the following three components: the Adult County Inmate Program (ACIP), as authorized in state law pursuant to Welfare and Institutions Code section 14053.7 and Penal Code section 5072, the Juvenile County Ward Program (JCWP), as authorized in Welfare and Institutions Code section 14053.8, and the County Compassionate Release Program (CCRP) and County Medical Probation Program (CMPP), as authorized by Government Code sections 26605.6, 26605.7, and 26605.8.
- G. "MCIP Administrative Services" means the administrative services provided by DHCS personnel for the administration of MCIP.
- H. "Medi-Cal provider" means, any individual, partnership, group association, corporation, institution, or entity and the officer, directors, owners, managing employees or agents of any partnership, group association, corporation, institution, or entity that provides services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary, and that has been enrolled in the Medi-Cal program.
- I. The State Fiscal Year (SFY) begins on July 1st of each calendar year and ends on June 30th in the subsequent calendar year.

#### 6. Maximum Payable Amount

The amount that the County shall be obligated to pay for MCIP administrative services rendered under this Agreement shall not exceed its share of the nonfederal share of DHCS administrative costs. The maximum payable amount the County shall be obligated to pay for services rendered under this Agreement shall not exceed \$10,332.64 which shall be based on a methodology specified in Addendum A.

- A. The maximum payable amount shall be further subject to the allocated State Fiscal Year's (SFY's) annual limits not to exceed:

\$3,182.79 for July 1, 2023, through and including June 30, 2024  
 \$3,437.41 for July 1, 2024, through and including June 30, 2025  
 \$3,712.45 for July 1, 2025, through and including June 30, 2026

For future contract periods not covered under this Agreement, the maximum payable amount shall be determined through a new Agreement or an amendment to this Agreement.

7. Contact Persons

Any notice, request, demand, or other communication required or permitted hereunder, shall be deemed to be properly given when furnished in writing to the following:

A. In the case of the County to:

Anabel Silva, Staff Services Analyst  
County of Napa  
1125 Third Street  
Napa, CA 94559

Or to such person or address as the County may furnish in writing to DHCS.

B. In the case of DHCS to:

California Department of Health Care Services  
Local Governmental Financing Division  
County Based Claiming & Inmate Services Section  
Attn: Inmate Medi-Cal Claiming Unit  
1501 Capitol Avenue, MS 2628  
P.O. Box 997436  
Sacramento, CA 95899-7436

Or to such person or address as DHCS may, from time to time, furnish in writing or to the County.

8. Payment Terms and Invoicing

A. General Terms

1. DHCS shall submit an annual invoice to the County for the County's apportioned share of the nonfederal share of the MCIP administrative services for the period billed.
2. The County shall pay DHCS for the County's apportioned share of the non-federal share of MCIP administrative services which shall be based on a methodology specified in Addendum A within 60 days of receipt of an invoice.
3. Failure by the County to timely pay DHCS shall constitute a material breach of this Agreement which, at DHCS' discretion, may result in termination of



both this Agreement and the MCIP Evergreen Provider Agreement (PA) by DHCS. The County may cure such breach by rendering payment of the amount owed to DHCS three days prior to the termination of this Agreement or the PA.

4. The County shall not make payments for any invoice or portion thereof exceeding the respective maximum payable amount. Payment for any MCIP administrative services rendered by DHCS exceeding the respective maximum payable amount shall require an amendment. If the County fails to execute a retroactive amendment to the maximum payable amount under this Agreement, DHCS shall terminate both the Agreement and the PA.
5. Payments shall be sent to DHCS at the following address, or such other address as DHCS may specify in writing:

California Department of Health Care Services  
Local Governmental Financing Division  
County Based Claiming & Inmate Services Section  
Attn: Inmate Medi-Cal Claiming Unit  
1501 Capitol Avenue, MS 2628  
P.O. Box 997436  
Sacramento, CA 95899-7436

9. DHCS Responsibilities

A. MCIP Administrative Services

1. DHCS shall administer MCIP and this Agreement for the purpose of claiming federal reimbursement for MCIP services. It is understood by both parties that other administrative activities remain the responsibility of the County.
2. DHCS shall maintain accounting records for personnel services at a level of detail as described in Schedule A. Additionally, these records must identify any equipment and all related operating expenses.
3. DHCS shall submit to the County an annual invoice for the County's apportioned share of the nonfederal share of MCIP administrative services based on Addendum A. The annual invoice for reimbursement shall identify the following summarized categories of DHCS' costs for the allocated SFY period billed: salary, benefits, operating expenses, and total costs. Costs shall be multiplied by one minus the Federal Medical Assistance Percentage (FMAP) applicable to such administrative costs subject to the limit on the amount reimbursable by the County. The maximum payable amount shall

not exceed the County's apportioned share, which shall be based on a methodology specified in Addendum A.

B. General Responsibilities

1. Should the scope of work for this Agreement conflict with DHCS' responsibilities under federal Medicaid law, those responsibilities shall take precedence.
2. DHCS' cessation of any activities due to federal Medicaid responsibilities does not relinquish the obligation of the County to reimburse DHCS for administrative costs incurred by DHCS in connection with this Agreement for periods in which the County participated in MCIP.
3. DHCS agrees to provide to the County, or any federal or state department with monitoring or reviewing authority, access and the right to examine its applicable records and documents for compliance with relevant federal and state statutes, regulations, and this Agreement.

10. County Responsibilities

A. MCIP Administrative Services

1. As a condition of participation, the County accepts responsibility for reimbursing DHCS for the County's apportioned share of the nonfederal share of costs of MCIP administrative services based on Addendum A.
2. The County shall reimburse DHCS its allotted portion of the nonfederal share of funding allocated for compensation, associated operating expenses, equipment, and travel costs for no more than 3.50 full-time equivalent (FTE) positions composed of: one-half (0.50) FTE Staff Service Manager I, one (1) FTE Health Program Specialist I, one (1) FTE Staff Services Analyst/Associate Governmental Program Analyst, one-half (0.50) FTE Attorney, and one-half (0.50) FTE Accounting Officer, to be established and housed at DHCS, to support the reported expenditures submission process for obtaining federal reimbursement under this Agreement.
3. If a County does not participate in MCIP or does not abide by the terms of this Agreement, the County remains responsible for arranging for and paying for medical care for its MCIP eligible beneficiaries.

B. General Responsibilities

1. Upon compliance with all applicable provisions of this Agreement and applicable laws, the County may send its MCIP eligible beneficiaries to Medical providers to receive MCIP services.

2. The County shall reimburse DHCS pursuant to Paragraph A with funds from the County's General Fund, or from any other funds allowed under federal law and regulation.
3. In the event of a federal deferral or disallowance applicable to MCIP expenditures, the County shall provide all documents requested by DHCS within fourteen days.

#### 11. Amendments

Amendments to this Agreement shall be in writing signed by the parties to this Agreement, and, if required by state law, by approval of the California Department of General Services. Notwithstanding the previous sentence, any changes made to the contact persons identified in Article 7 may be made by written communication, e-mail to the other contact person or persons and without formal amendment.

#### 12. Termination and Agreement Disputes

- A. This Agreement may be terminated by either party upon written notice given at least 30 days prior to the termination date. Notice shall be addressed to the respective parties as identified in Article 7. The County shall remain obligated after the termination date to pay for all MCIP administrative costs incurred by DHCS for periods in which the County participated in the MCIP.
- B. This Agreement shall terminate upon cessation of the MCIP. The County shall remain obligated after the termination date to pay for all of the County's apportioned share of MCIP administrative costs incurred by DHCS for periods in which the County participated in MCIP.
- C. Termination of this Agreement will automatically terminate the County's MCIP Evergreen PA.

#### 13. General Provisions

- A. Indemnification. It is agreed that the County shall defend, hold harmless, and indemnify DHCS, its officers, employees, and agents from any and all reported expenditures, liability, loss, or expense (including reasonable attorney fees) for injuries or damage to any person, any property, or both which arise out of the terms and conditions of this Agreement and the negligent or intentional acts or omissions of the County, its officers, employees, or agents.
- B. Severability. If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way. Notwithstanding the previous



sentence, if a decision by a court of competent jurisdiction invalidates, voids, or renders unenforceable a term, condition, or provision in this Agreement that is included in the purpose of this Agreement then the parties to this Agreement shall either amend this Agreement pursuant to Article 11, or it shall be terminated pursuant to Article 12.

- C. Records. DHCS and the County shall maintain and preserve all records relating to this Agreement for a period of three years from DHCS' receipt of the last payment of FFP, or until three years after all audit findings are resolved, whichever is later. This does not limit any responsibilities of DHCS or the County provided for elsewhere in this Agreement, or in state or federal law.
- D. Compliance with Applicable Laws. All parties performance under this Agreement shall be in accordance with all applicable federal and state laws, including, but not limited to:
  - 1. The Americans with Disabilities Act of 1990, as amended;
  - 2. Section 504 of the Rehabilitation Act of 1973, as amended;
  - 3. Title XIX of the Social Security Act;
  - 4. Welfare and Institutions Code section 14000 et seq.;
  - 5. Government Code section 53060;
  - 6. The California Medicaid State Plan;
  - 7. Applicable laws and regulations related to licensure, certification, confidentiality of records, quality assurance, and nondiscrimination;
  - 8. The Policy and Procedure Letters, and similar instructions, published with regulatory authority;
  - 9. Government Code sections 26605.6, 26605.7, and 26605.8;
  - 10. Penal Code section 5072;
  - 11. 42 Code of Federal Regulations; and,
  - 12. Applicable sections of the California Code of Regulations.
- E. Controlling Law and Venue. The validity of this Agreement and its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation and performance of this Agreement shall be governed by the laws of

the State of California. Venue for any action brought concerning this Agreement shall be in any county in which the Attorney General maintains an office.

F. Integration Clause.

1. This Agreement and any exhibits and addendums attached hereto shall constitute the entire Agreement among the parties to it pertaining to the implementation of MCIP and supersedes any prior or contemporaneous understanding or agreement with respect to the subject matter of this Agreement.
2. Notwithstanding Subparagraph G.1., DHCS Form 9098 or DHCS Form 6208 (whichever is applicable) is incorporated by reference into this Agreement if the County has a DHCS Form 9098 or DHCS Form 6208 on record. Notwithstanding Subparagraph G.1., the terms of the DHCS Form 9098 or DHCS Form 6208 control to the extent there is a conflict with this Agreement, except for Article 10 of this Agreement. If the DHCS Form 9098 or DHCS Form 6208 does not address a matter addressed by this Agreement, then this Agreement controls.

G. Conformance Clause. Any provision of this Agreement in conflict with present or future governing authorities is hereby amended to conform to those authorities and such amended provisions supersede any conflicting provisions in this Agreement. The governing authorities include, but are not limited to the authorities listed in Article 13.D.

H. Waiver. No covenant, condition, duty, obligation, or undertaking made a part of this Agreement shall be waived except by amendment of the Agreement by the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the other party to which the same may apply; and, until performance or satisfaction of all covenants, duties, obligations, or undertakings is complete, the party shall have the right to invoke any remedy available under this Agreement, or under law, notwithstanding such forbearance or indulgence.

I. Third Party Benefit. None of the provisions of this Agreement are or shall be construed as for the benefit of, or enforceable by, any person not a party to this Agreement.

J. Conflict of Interest. The County is subject to the Medi-Cal Conflict of Interest Law, as applicable and set forth in Welfare and Institutions Code section 14022 and Article 1.1 (commencing with Welfare and Institutions Code section 14047), and implemented pursuant to 22 California Code of Regulations, section 51466.

- K. Budget Contingency Clause. If funding associated with MCIP for any SFY is reduced by the State Budget Act, DHCS shall have the option to cancel this Agreement with no liability occurring to the State.
- L. Confidentiality. The County shall comply with the applicable confidentiality requirements as specified in Section 1902(a)(7) of the Social Security Act; 42 Code of Federal Regulations, part 431.300; Welfare and Institutions Code section 14100.2; and 22 California Code of Regulations, section 51009; and, the Business Associates Agreement attached and hereby incorporated by reference.

County of Napa 23-30036

---

The signatories to this Agreement represent and warrant that they have full and binding authority to the commitments contained herein on behalf of their respective entity.

County of \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES**  
**Contracts Section**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## SCHEDULE A SCOPE OF WORK

### CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

DHCS agrees to:

1. Calculate the actual costs for administrative accounting, policy development, and data processing maintenance activities, including the indirect costs related to the MCIP program provided by its staff, which is in accordance with the provisions of Section 1903(w) of the Social Security Act and 42 Code of Federal Regulations, part 433, subpart B.
2. Lead the development, implementation, and administration for the MCIP.
3. Submit claims for Federal Financial Participation (FFP) based on Certified Public Expenditures (CPE) from participating MCIP counties.
4. On an annual basis, submit any necessary materials to the federal government to provide assurances that claims for FFP will include only those expenditures that are allowable under federal law.
5. Maintain accounting records to a level of detail that identifies the actual expenditures incurred for personnel services including salary or wages, benefits, and overhead costs for DHCS' staff. Additionally, these records will identify any equipment and all related operating expenses applicable to these positions. Records should include, but not be limited to general expense, rent and supplies for identified staff and managerial staff working specifically on activities or assignments directly related to the MCIP.
6. Ensure that an appropriate audit trail exists within DHCS' records and accounting system and maintain expenditure data as indicated in this Agreement.
7. Designate a person to act as liaison with the County for issues arising from this Agreement. This person shall be identified to the County's contact person for this Agreement.
8. Provide a written response to the County's contact person within 30 days of receiving a written request for information related to the MCIP.
9. Provide the County with accounting, program technical assistance, and training related to the MCIP.
10. Maintain an invoice tracking system for MCIP and provide a report on an annual basis.

11. Establish an annual MCIP administrative cost based on Addendum A.
12. Invoice the County on an annual basis for administrative costs.

### **ADDENDUM A: MCIP Administrative Costs**

The MCIP Administrative Contract is a three-year contract. At the beginning of each calendar year, counties have the opportunity to inform DHCS of their intent to continue participation in MCIP for the upcoming State Fiscal Year (SFY) by completing the MCIP Letter of Intent (LOI).

The methodology for calculating each county's nonfederal share of administrative costs was developed by DHCS in consultation with the California State Association of Counties, County Health Executives Association of California, California Association of Public Hospitals and Health Systems, and the California State Sheriffs' Association. The nonfederal share of administrative costs allocated to each county is based on the following:

- 1) 30% of the total administrative costs will be distributed evenly to participating counties over 50,000 in population. \*
- 2) 70% of the total administrative costs will be allocated to participating counties pro-rata based on population. \*

*\*Population data will be obtained from the California Department of Finance, Demographic Estimates*

To account for a cost of living adjustment on a yearly basis after the initial SFY of the current Agreement, DHCS will include a year over year growth factor of 8% to the maximum payable amount of the annual administrative cost for each subsequent SFY. DHCS will invoice participating counties for the nonfederal share of administrative costs annually after the close of the previous fiscal year based on actual administrative costs per the methodology above.



**Business Associate Addendum**

1. This Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (HIPAA) and its implementing privacy and security regulations at 45 Code of Federal Regulations, Parts 160 and 164 (collectively, and as used in this Agreement)
2. The term "Agreement" as used in this document refers to and includes both this Business Associate Addendum and the contract to which this Business Associate Agreement is attached as an exhibit, if any.
3. For purposes of this Agreement, the term "Business Associate" shall have the same meaning as set forth in 45 CFR section 160.103.
4. The Department of Health Care Services (DHCS) intends that Business Associate may create, receive, maintain, transmit or aggregate certain information pursuant to the terms of this Agreement, some of which information may constitute Protected Health Information (PHI) and/or confidential information protected by Federal and/or state laws.
  - 4.1 As used in this Agreement and unless otherwise stated, the term "PHI" refers to and includes both "PHI" as defined at 45 CFR section 160.103 and Personal Information (PI) as defined in the Information Practices Act (IPA) at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic.
  - 4.2 As used in this Agreement, the term "confidential information" refers to information not otherwise defined as PHI in Section 4.1 of this Agreement, but to which state and/or federal privacy and/or security protections apply.
5. Contractor (however named elsewhere in this Agreement) is the Business Associate of DHCS acting on DHCS's behalf and provides services or arranges, performs or assists in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI (collectively, "use or disclose PHI") in order to fulfill Business Associate's obligations under this Agreement. DHCS and Business Associate are each a party to this Agreement and are collectively referred to as the "parties."
6. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in HIPAA and/or the IPA. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.



**7. Permitted Uses and Disclosures of PHI by Business Associate**

Except as otherwise indicated in this Agreement, Business Associate may use or disclose PHI, inclusive of de-identified data derived from such PHI, only to perform functions, activities or services specified in this Agreement on behalf of DHCS, provided that such use or disclosure would not violate HIPAA or other applicable laws if done by DHCS.

**7.1 Specific Use and Disclosure Provisions**

Except as otherwise indicated in this Agreement, Business Associate may use and disclose PHI if necessary for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. Business Associate may disclose PHI for this purpose if the disclosure is required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person. The person shall notify the Business Associate of any instances of which the person is aware that the confidentiality of the information has been breached, unless such person is a treatment provider not acting as a business associate of Business Associate.

**8. Compliance with Other Applicable Law**

**8.1** To the extent that other state and/or federal laws provide additional, stricter and/or more protective (collectively, more protective) privacy and/or security protections to PHI or other confidential information covered under this Agreement beyond those provided through HIPAA, Business Associate agrees:

**8.1.1** To comply with the more protective of the privacy and security standards set forth in applicable state or federal laws to the extent such standards provide a greater degree of protection and security than HIPAA or are otherwise more favorable to the individuals whose information is concerned; and

**8.1.2** To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate, pursuant to Section 18. of this Agreement.

**8.2** Examples of laws that provide additional and/or stricter privacy protections to certain types of PHI and/or confidential information, as defined in Section 4. of this Agreement, include, but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and

Institutions Code section 5328, and California Health and Safety Code section 11845.5.

- 8.3** If Business Associate is a Qualified Service Organization (QSO) as defined in 42 CFR section 2.11, Business Associate agrees to be bound by and comply with subdivisions (2)(i) and (2)(ii) under the definition of QSO in 42 CFR section 2.11.

## **9. Additional Responsibilities of Business Associate**

### **9.1 Nondisclosure**

- 9.1.1** Business Associate shall not use or disclose PHI or other confidential information other than as permitted or required by this Agreement or as required by law.

### **9.2 Safeguards and Security**

- 9.2.1** Business Associate shall use safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and other confidential data and comply, where applicable, with subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the information other than as provided for by this Agreement. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels.
- 9.2.2** Business Associate shall, at a minimum, utilize a National Institute of Standards and Technology Special Publication (NIST SP) 800-53 compliant security framework when selecting and implementing its security controls and shall maintain continuous compliance with NIST SP 800-53 as it may be updated from time to time. The current version of NIST SP 800-53, Revision 5, is available online at; updates will be available online through the Computer Security Resource Center website.
- 9.2.3** Business Associate shall employ FIPS 140-2 validated encryption of PHI at rest and in motion unless Business Associate determines it is not reasonable and appropriate to do so based upon a risk assessment, and equivalent alternative measures are in place and documented as such. FIPS 140-2 validation can be determined online through the Cryptographic Module Validation Program Search, with information about the Cryptographic Module Validation Program under FIPS 140-2. In addition, Business Associate shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.

- 9.2.4 Business Associate shall apply security patches and upgrades, and keep virus software up-to-date, on all systems on which PHI and other confidential information may be used.
- 9.2.5 Business Associate shall ensure that all members of its workforce with access to PHI and/or other confidential information sign a confidentiality statement prior to access to such data. The statement must be renewed annually.
- 9.2.6 Business Associate shall identify the security official who is responsible for the development and implementation of the policies and procedures required by 45 CFR Part 164, Subpart C.

### **9.3 Business Associate's Agent**

Business Associate shall ensure that any agents, subcontractors, subawardees, vendors or others (collectively, "agents") that use or disclose PHI and/or confidential information on behalf of Business Associate agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI and/or confidential information.

## **10. Mitigation of Harmful Effects**

Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI and other confidential information in violation of the requirements of this Agreement.

## **11. Access to PHI**

Business Associate shall make PHI available in accordance with 45 CFR section 164.524.

## **12. Amendment of PHI**

Business Associate shall make PHI available for amendment and incorporate any amendments to protected health information in accordance with 45 CFR section 164.526.

## **13. Accounting for Disclosures**

Business Associate shall make available the information required to provide an accounting of disclosures in accordance with 45 CFR section 164.528.

## **14. Compliance with DHCS Obligations**

To the extent Business Associate is to carry out an obligation of DHCS under 45 CFR Part 164, Subpart E, comply with the requirements of the subpart that apply to DHCS in the performance of such obligation.

**15. Access to Practices, Books and Records**

Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI on behalf of DHCS available to DHCS upon reasonable request, and to the federal Secretary of Health and Human Services for purposes of determining DHCS' compliance with 45 CFR Part 164, Subpart E.

**16. Return or Destroy PHI on Termination; Survival**

At termination of this Agreement, if feasible, Business Associate shall return or destroy all PHI and other confidential information received from, or created or received by Business Associate on behalf of, DHCS that Business Associate still maintains in any form and retain no copies of such information. If return or destruction is not feasible, Business Associate shall notify DHCS of the conditions that make the return or destruction infeasible, and DHCS and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. If such return or destruction is not feasible, Business Associate shall extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

**17. Special Provision for SSA Data**

If Business Associate receives data from or on behalf of DHCS that was verified by or provided by the Social Security Administration (SSA data) and is subject to an agreement between DHCS and SSA, Business Associate shall provide, upon request by DHCS, a list of all employees and agents and employees who have access to such data, including employees and agents of its agents, to DHCS.

**18. Breaches and Security Incidents**

Business Associate shall implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and take the following steps:

**18.1 Notice to DHCS**

- 18.1.1** Business Associate shall notify DHCS immediately upon the discovery of a suspected breach or security incident that involves SSA data. This notification will be provided by email upon discovery of the breach. If Business Associate is unable to provide notification by email, then Business Associate shall provide notice by telephone to DHCS.



**18.1.2** Business Associate shall notify DHCS within 24 hours by email (or by telephone if Business Associate is unable to email DHCS) of the discovery of the following, unless attributable to a treatment provider that is not acting as a business associate of Business Associate:

**18.1.2.1** Unsecured PHI if the PHI is reasonably believed to have been accessed or acquired by an unauthorized person;

**18.1.2.2** Any suspected security incident which risks unauthorized access to PHI and/or other confidential information;

**18.1.2.3** Any intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement; or

**18.1.2.4** Potential loss of confidential information affecting this Agreement.

**18.1.3** Notice shall be provided to the DHCS Program Contract Manager (as applicable), the DHCS Privacy Office, and the DHCS Information Security Office (collectively, "DHCS Contacts") using the DHCS Contact Information in Section 18.6.

Notice shall be made using the current DHCS "Privacy Incident Reporting Form" ("PIR Form"; the initial notice of a security incident or breach that is submitted is referred to as an "Initial PIR Form") and shall include all information known at the time the incident is reported. The form is available online at the [DHCS Data Privacy webpage](#).

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI, Business Associate shall take:

**18.1.3.1** Prompt action to mitigate any risks or damages involved with the security incident or breach; and

**18.1.3.2** Any action pertaining to such unauthorized disclosure required by applicable Federal and State law.

## **18.2 Investigation**

Business Associate shall immediately investigate such security incident or breach.

### **18.3 Complete Report**

To provide a complete report of the investigation to the DHCS contacts within ten (10) working days of the discovery of the security incident or breach. This "Final PIR" must include any applicable additional information not included in the Initial Form. The Final PIR Form shall include an assessment of all known factors relevant to a determination of whether a breach occurred under HIPAA and other applicable federal and state laws. The report shall also include a full, detailed corrective action plan, including its implementation date and information on mitigation measures taken to halt and/or contain the improper use or disclosure. If DHCS requests information in addition to that requested through the PIR form, Business Associate shall make reasonable efforts to provide DHCS with such information. A "Supplemental PIR" may be used to submit revised or additional information after the Final PIR is submitted. DHCS will review and approve or disapprove Business Associate's determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and Business Associate's corrective action plan.

**18.3.1** If Business Associate does not complete a Final PIR within the ten (10) working day timeframe, Business Associate shall request approval from DHCS within the ten (10) working day timeframe of a new submission timeframe for the Final PIR.

### **18.4 Notification of Individuals**

If the cause of a breach is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate shall notify individuals accordingly and shall pay all costs of such notifications, as well as all costs associated with the breach. The notifications shall comply with applicable federal and state law. DHCS shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.

### **18.5 Responsibility for Reporting of Breaches to Entities Other than DHCS**

If the cause of a breach of PHI is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate is responsible for all required reporting of the breach as required by applicable federal and state law.

**18.6 DHCS Contact Information**

To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated here. DHCS reserves the right to make changes to the contact information below by giving written notice to Business Associate. These changes shall not require an amendment to this Agreement.

**18.6.1 DHCS Program Contract Manager**

See the Scope of Work exhibit for Program Contract Manager information. If this Business Associate Agreement is not attached as an exhibit to a contract, contact the DHCS signatory to this Agreement.

**18.6.2 DHCS Privacy Office**

Privacy Office  
c/o: Office of HIPAA Compliance  
Department of Health Care Services  
P.O. Box 997413, MS 4722  
Sacramento, CA 95899-7413

Email: [incidents@dhcs.ca.gov](mailto:incidents@dhcs.ca.gov)

Telephone: (916) 445-4646

**18.6.3 DHCS Information Security Office**

Information Security Office  
DHCS Information Security Office  
P.O. Box 997413, MS 6400  
Sacramento, CA 95899-7413

Email: [incidents@dhcs.ca.gov](mailto:incidents@dhcs.ca.gov)

**19. Responsibility of DHCS**

DHCS agrees to not request the Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA and/or other applicable federal and/or state law.

**20. Audits, Inspection and Enforcement**

**20.1** From time to time, DHCS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement. Business Associate shall promptly remedy any violation of this Agreement and shall certify the same to the DHCS Privacy Officer in writing. Whether



or how DHCS exercises this provision shall not in any respect relieve Business Associate of its responsibility to comply with this Agreement.

- 20.2** If Business Associate is the subject of an audit, compliance review, investigation or any proceeding that is related to the performance of its obligations pursuant to this Agreement, or is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, Business Associate shall promptly notify DHCS unless it is legally prohibited from doing so.

## **21. Termination**

### **21.1 Termination for Cause**

Upon DHCS' knowledge of a violation of this Agreement by Business Associate, DHCS may in its discretion:

- 21.1.1** Provide an opportunity for Business Associate to cure the violation and terminate this Agreement if Business Associate does not do so within the time specified by DHCS; or
- 21.1.2** Terminate this Agreement if Business Associate has violated a material term of this Agreement.

### **21.2 Judicial or Administrative Proceedings**

DHCS may terminate this Agreement if Business Associate is found to have violated HIPAA, or stipulates or consents to any such conclusion, in any judicial or administrative proceeding.

## **22. Miscellaneous Provisions**

### **22.1 Disclaimer**

DHCS makes no warranty or representation that compliance by Business Associate with this Agreement will satisfy Business Associate's business needs or compliance obligations. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and other confidential information.

### **22.2 Amendment**

- 22.2.1** Any provision of this Agreement which is in conflict with current or future applicable Federal or State laws is hereby amended to conform to the provisions of those laws. Such amendment of this Agreement shall be effective on the effective date of the laws necessitating it, and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

**22.2.2** Failure by Business Associate to take necessary actions required by amendments to this Agreement under Section 22.2.1 shall constitute a material violation of this Agreement.

**22.3 Assistance in Litigation or Administrative Proceedings**

Business Associate shall make itself and its employees and agents available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers and/or employees based upon claimed violation of HIPAA, which involve inactions or actions by the Business Associate.

**22.4 No Third-Party Beneficiaries**

Nothing in this Agreement is intended to or shall confer, upon any third person any rights or remedies whatsoever.

**22.5 Interpretation**

The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and other applicable laws.

**22.6 No Waiver of Obligations**

No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0322

**TO:** Board of Supervisors  
**FROM:** David Morrison, Interim County Executive Officer  
**REPORT BY:** Thomas Zeleny, Chief Deputy County Counsel  
**SUBJECT:** Termination of the COVID-19 state of local emergency and local health emergency

### **RECOMMENDATION**

Interim County Executive Officer requests adoption of a Resolution proclaiming the termination of the state of local emergency and the local health emergency due to COVID-19.

### **EXECUTIVE SUMMARY**

On March 4, 2020, the Governor proclaimed a state of emergency due to COVID-19. The Board of Supervisors similarly proclaimed a state of local emergency and a local health emergency due to COVID-19 on March 17, 2020. Napa County is no longer relying on California's state of emergency, the state of local emergency, or the local health emergency to respond to COVID-19. The Governor proclaimed an end the California's state of emergency due to COVID-19 on February 28, 2023. This item requests the Board of Supervisors take similar action and adopt a resolution proclaiming the termination of the state of local emergency and the local health emergency due to COVID-19.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Napa County is no longer relying on the local emergencies to respond to COVID-19.
Consequences if not approved:	The Board of Supervisors will need to revisit the state of local emergency every 60 days, and the local health emergency every 30 days.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** This proposed activity is not subject to CEQA pursuant to CEQA Guidelines section 15060(c)(3) because the activity is not a project pursuant to section 15378, and because it will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to

section 15060(c)(1).

**BACKGROUND AND DISCUSSION**

On March 4, 2020, the Governor proclaimed a state of emergency due to COVID-19. The Board of Supervisors similarly proclaimed a state of local emergency and a local health emergency due to COVID-19 on March 17, 2020. Normally, local agencies normally must revisit a state of local emergency every 60 days, and a local health emergency every 30 days. However, the Governor's Proclamation of a State of Emergency due to COVID-19 relieved local agencies of the obligation to periodically revisit a state of local emergency and a local health emergency.

The Governor proclaimed an end to California's state of emergency due to COVID-19 on February 28, 2023. The Governor's proclamation (attached) indicates that conditions of extreme peril to the safety of persons and property due to COVID-19 no longer exist. State law requires local agencies to terminate a state of local emergency and a local health emergency once conditions warrant. This item requests the Board of Supervisors take similar action and adopt a resolution proclaiming the termination of the state of local emergency and the local health emergency due to COVID-19. Napa County is no longer relying on California's state of emergency, the state of local emergency, or the local health emergency to respond to COVID-19.

**NAPA COUNTY RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS,  
STATE OF CALIFORNIA, PROCLAIMING THE TERMINATION OF THE  
STATE OF LOCAL EMERGENCY AND THE LOCAL HEALTH  
EMERGENCY DUE TO COVID-19**

**WHEREAS**, on March 17, 2020, the Board of Supervisors proclaimed a state of local emergency and a local health emergency due to COVID-19, pursuant to Resolution No. 2020-38; and

**WHEREAS**, local agencies normally must revisit a state of local emergency every 60 days, and a local health emergency every 30 days, pursuant to California Government Code section 8630(c) and California Health & Safety Code section 101080, respectively; and

**WHEREAS**, the Governor's Proclamation of a State of Emergency due to COVID-19, issued on March 4, 2020, relieved local agencies of the obligation to periodically revisit a state of local emergency and a local health emergency; and

**WHEREAS**, the Governor proclaimed an end to California's state of emergency due to COVID-19 on February 28, 2023; and

**WHEREAS**, the Governor's proclamation indicates that conditions of extreme peril to the safety of persons and property due to COVID-19 no longer exist; and

**WHEREAS**, local agencies must terminate a state of local emergency once conditions warrant, pursuant to California Government Code section 8630(d); and

**WHEREAS**, local agencies must terminate a local health emergency once conditions warrant, pursuant to California Health & Safety Code section 101080; and

**WHEREAS**, Napa County is no longer relying on California's state of emergency, the state of local emergency, or the local health emergency to respond to COVID-19;

**NOW, THEREFORE, BE IT RESOLVED** by the Napa County Board of Supervisors, that the state of local emergency due to COVID-19 is hereby terminated.

**BE IT FURTHER RESOLVED**, that the local health emergency due to COVID-19 is hereby terminated.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED**  
 by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board  
 held on the \_\_\_\_ day of \_\_\_\_\_, 2023, by the following vote:

AYES:	SUPERVISORS	_____
		_____
NOES:	SUPERVISORS	_____
ABSTAIN:	SUPERVISORS	_____
ABSENT:	SUPERVISORS	_____

NAPA COUNTY, a political subdivision of  
 the State of California

By: \_\_\_\_\_  
 BELIA RAMOS, Chair of the  
 Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u> Deputy County Counsel</p> <p>Date: <u>February 16, 2023</u> PL Doc. No. 87114</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
--	--	--

EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

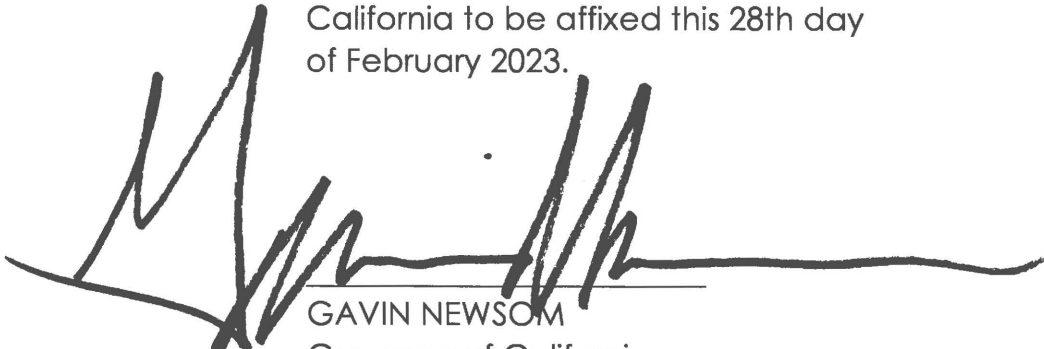
A PROCLAMATION  
BY THE GOVERNOR OF THE STATE OF CALIFORNIA  
TERMINATING STATE OF EMERGENCY

I, **GAVIN NEWSOM**, Governor of the State of California, having found pursuant to Government Code section 8629 that the conditions of extreme peril to the safety of persons and property declared in the State of Emergency proclamation listed below no longer exist, therefore proclaim that the State of Emergency proclaimed on the following date and in the following jurisdiction no longer exists, effective at 11:59 p.m. on February 28, 2023. Accordingly, any Executive Orders related to the terminated State of Emergency will also no longer be in effect as of 11:59 p.m. on February 28, 2023.

PROCLAMATION		
Emergency	Date Proclaimed	Jurisdiction
COVID-19	March 4, 2020	Statewide

**I FURTHER DIRECT** that as soon as hereafter possible, this Proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Proclamation.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 28th day of February 2023.



GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
SHIRLEY WEBER, PH.D.  
Secretary of State





# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0356

**TO:** Board of Supervisors  
**FROM:** David Morrison, Interim County Executive Officer  
**REPORT BY:** Daniel Sanchez, Senior Management Analyst  
**SUBJECT:** Accept Report on Loss Revenue due to Changes to Criminal Justice Fines and Fees

### **RECOMMENDATION**

Interim County Executive Officer requests the Board receive a report on lost revenues due to canceling certain criminal justice fines and fees and authorize submittal of the report to the Director of Finance, the Legislative Analyst's Office, and the Joint Legislative Budget Committee.

### **EXECUTIVE SUMMARY**

In 2020 and 2021 the State of California passed AB1869 (2020), AB143 (2021) and AB177 (2021). These bills removed the ability for counties to charge specific criminal justice related fees and provided a backfill to counties. The County of Napa received \$8,481 in lieu of fees eliminated by AB177. State law requires that each county's Board of Supervisors receiving backfill funds submit a report to the Director of Finance, Legislative Analysts' Office, and the Joint Legislative Budget Committee detailing the actual revenue lost from each fee in each of the three most recent years.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Click or tap here to enter text.
Is it Mandatory or Discretionary?	Mandatory
Discretionary Justification:	Click or tap here to enter text.
Is the general fund affected?	Yes
Future fiscal impact:	Click or tap here to enter text.
Consequences if not approved:	If it is not approved the County of Napa will not comply with state law.

County Strategic Plan pillar addressed: Effective and Open Government  
Additional Information Click or tap here to enter text.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: No.

### **BACKGROUND AND DISCUSSION**

In 2020 and 2021 the State of California passed AB1869 (2020), AB143 (2021) and AB177 (2021). These bills removed the ability of charge specific criminal justice related fees and provide a backfill to counties which lost revenue. The County of Napa previously submitted a report to the state in April 2022 showing the amount of revenue lost due to eliminating certain other criminal justice related fees.

AB177 eliminated an additional 17 fees and requires that the county receiving backfill funds submit a report to the Director of Finance, the Legislative Analyst's Office, and the Joint Legislative Budget Committee detailing the actual revenue lost from each individual fee for the three most recent years. Accepting this report will allow staff to provide the revenue loss amounts to the state and comply with state law. According to the County Department of Probation \$8,481 was received in fees which were eliminated by AB177. No other department collected fees which were eliminated by AB177.

## County of Napa AB177 Report

From Fiscal Year 2019-20 and 2020-21 the County of Napa did not receive revenue for the criminal justice fees listed in AB 177. In Fiscal Year 2021-22 the County of Napa received a total of \$8,481 fees related to PC1203.1ab (Probation Victim Restitution Fee). The actual revenue from this fee was tracked by an account code by the Probation Department as shown below.

	<b>FY2019-20</b>	<b>FY2020-21</b>	<b>FY2021-22</b>
<b>Probation</b>	0	0	\$8,481
<b>Corrections</b>	0	0	0
<b>Corrections court</b>	0	0	0
<b>Public Defender</b>	0	0	0
<b>TOTAL</b>	0	0	\$8,481

AB177 Fees Waived

<b>Code Section</b>	<b>Fee Type</b>
PC §1203.4(a)	Dismissal of Charges Fee
PC §1203.9	Probation Transfer Fee
PC §2085.5	Restitution Fee
PC §2085.6	Restitution Fee
PC §1001.9	Diversion Fee
PC §1202.4(1)	Victim Restitution Fee
PC §1203.1(1)	Probation Victim Restitution Fee
PC §1203.1ab	Probation Victim Restitution Fee
PC §1203.1c	Confinement Reimbursement Fee
PC §1203.1m	Confinement Reimbursement Fee
PC §1205(e)	Processing of Installment Accounts Fee
PC §1214.5	Restitution Fee
PC §2085.7	Restitution Fee
PC §1001.15	Diversion Enrollment Fee
PC §1001.16	Diversion Enrollment Fee
VC §40510.5	Bail – Infraction Fee
VC §40508.5	Failure to Appear Fee



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0216

---

**TO:** Board of Supervisors

**FROM:** Jennifer Yasumoto, Director Health and Human Services Agency

**REPORT BY:** Gaby Angeles, Staff Services Analyst II

**SUBJECT:** Approval of Certification with Department of Health Care Services for California Children's Services

---

### **RECOMMENDATION**

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign a certification statement with Department of Health Care Services (DHCS) for Fiscal Year 2022-2023, confirming the County's agreement to comply with all applicable provisions governing the California Children's Services (CCS) program (Agreement No. 230315B).

### **EXECUTIVE SUMMARY**

Approval of today's action will confirm the County's agreement to comply with all applicable federal and state laws governing the CCS program in order to act as an "agent of Medi-Cal" for Medi-Cal beneficiaries with eligible medical conditions. The CCS program is administered by the Children's Medical Services (CMS) Branch of DHCS.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Health and Human Services
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Future fiscal impact:	This certification statement is only valid for Fiscal Year 2022-2023.

Consequences if not approved: County will be unable to draw down State and Federal funding for this program, and will be unable to reimburse HHSA's Public Health for program expenses for mandatory activities.

County Strategic Plan pillar addressed: Healthy, Safe, and Welcoming Place to Live, Work, and Visit

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

The CCS program provides diagnostic and treatment services, medical case management, and physical and occupational therapy services to children under age 21 with CCS-eligible medical conditions. The CCS program is administered as a partnership between county health departments and DHCS. As of Fiscal Year 2022-2023, 85 percent of CCS-eligible children are also Medi-Cal eligible. The Medi-Cal program reimburses their care.

Approval and signing of the certification statement confirms the County's acknowledgment and agreement to comply with all applicable provisions of the state and federal laws governing these programs and will allow HHSA to receive the funding to run the local program.

**Certification Statement - California Children's Services (CCS)****County/City:** Napa**Fiscal Year:** 2022-23

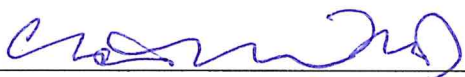
I certify that the CCS Program will comply with all applicable provisions of Health and Safety Code, Division 106, Part 2, Chapter 3, Article 5, (commencing with Section 123800) and Chapters 7 and 8 of the Welfare and Institutions Code (commencing with Sections 14000-14200), and any applicable rules or regulations promulgated by DHCS pursuant to this article and these Chapters. I further certify that this CCS Program will comply with the Children's Medical Services (CMS) Plan and Fiscal Guidelines Manual, including but not limited to, Section 9 Federal Financial Participation. I further certify that this CCS Program will comply with all federal laws and regulations governing and regulating recipients of funds granted to states for medical assistance pursuant to Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.) and recipients of funds allotted to states for the Maternal and Child Health Services Block Grant pursuant to Title V of the Social Security Act (42 U.S.C. Section 701 et seq.). I further agree that this CCS Program may be subject to all sanctions or other remedies applicable if this CCS Program violates any of the above laws, regulations and policies with which it has certified it will comply.



Signature of CCS Administrator

1/5/2023

Date Signed



Signature of Director or Health Officer

1/5/2023

Date Signed

Signature and Title of Other – Optional

Date Signed

I certify that this plan has been approved by the local governing body.

Signature of Local Governing Body Chairperson

Date

APPROVED AS TO FORM

Office of County Counsel

By: 

Date: 1/25/23





# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0217

---

**TO:** Board of Supervisors

**FROM:** Jennifer Yasumoto, Director Health and Human Services Agency

**REPORT BY:** Gaby Angeles, Staff Services Analyst II

**SUBJECT:** Amendment No. 1 to Agreement No. 220080B with the University of California, Davis (Data Use Agreement)

---

### **RECOMMENDATION**

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 220080B with the University of California, Davis (UC Davis), to add a Data Use Agreement to the existing agreement in order to enable County to share data with UC Davis researchers.

### **EXECUTIVE SUMMARY**

Approval of today's action will allow the County to share participating client data with the UC Davis Early Psychosis Learning Health Care Network in order to research new tools and improve future treatment outcomes. UC Davis is the lead for the Early Psychosis Learning Health Network project, a statewide collaborative of various counties and community-based organizations.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	While approval of this Agreement is discretionary, UC Davis is the lead for the California Early Psychosis Learning Health Care Network and is the best source for this information.

Consequences if not approved: If this Agreement is not approved Napa County will not be part of the Statewide Innovation Project that aims to improve interventions for individuals experiencing early psychosis symptoms.

County Strategic Plan pillar addressed: Healthy, Safe, and Welcoming Place to Live, Work, and Visit

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

This amendment will enable the HHSA Mental Health Division to share de-identified client data with the UC Davis Early Psychosis Learning Health Care Network to determine if a new software application would serve as a useful tool to better monitor consumer self-reported symptoms and eventually improve treatment outcomes and quality of life for consumers experiencing symptoms associated with early psychosis.

Under this contract, UC Davis shall provide a collaborative Learning Health Care Network (LHCN) to support quality improvements, consumer engagement and provide use of measurement-based care in Early Psychosis (EP) programs.

Development of an EP LHCN software application (app) will support ongoing data-driven learning and program development across the state. This LHCN will collect and visualize real-time data at the individual, clinic, county, and state levels to inform consumer and program level decisions and develop learning opportunities for individuals, staff, programs, and administrators to improve consumer outcomes. In addition, this project will include training and technical assistance to Aldea's Early Psychosis Supportive Outreach & Access to Resources (SOAR) Program to help them fully utilize the data in routine clinical care. The associated evaluation will examine the impact of the LHCN on the EP programs, and will quantify the cost of implementation and utilization, to support statewide efforts for early identification and treatment of psychosis. This project is an innovative approach to state-level learning and real-time outcomes monitoring for consumers, their families, and Aldea's SOAR Program. Additionally, this project allows for collaboration and learning between the HHSA Mental Health Division and other designated participating counties in California with their own EP programs.

Program deliverables include the implementation, tracking, monitoring, evaluation, and reporting of client and system outcomes measures. Additional responsibilities include providing consultation, technical assistance, and program support for Aldea's SOAR Program and mental health administration in program evaluation and outcomes.

This amendment was reviewed and approved by Napa County's Compliance and Privacy Officer.

Agreement ID: 2023-0104-D

FDP Data Transfer and Use Agreement ("Agreement")	
Provider: Napa County	Recipient: The Regents of the University of California on behalf of its Davis campus
Provider Scientist Name: Felix Bedolla Email: felix.bedolla@countyofnapa.org	Recipient Scientist Name: Dr. Tara Niendam Email: tniendam@ucdavis.edu
Agreement Term" Start Date: "Date of last signature below End Date: June 30th, 2024 after the Start Date"	Project Title: Collaborative Statewide Early Psychosis Learning Attachment 2 Type: Limited Data Set
<p align="center"><b>HYfa g'UbX'7 cbX]hcbg"</b></p> <ol style="list-style-type: none"> <li>1) Provider shall provide the data set described in Attachment 1 (the "Data") to Recipient for the research purpose set forth in Attachment 1 (the "Project"). Provider shall retain ownership of any rights it may have in the Data, and Recipient does not obtain any rights in the Data other than as set forth herein.</li> <li>2) If applicable, reimbursement of any costs associated with the preparation, compilation, and transfer of the Data to the Recipient will be addressed in Attachment 1.</li> <li>3) Recipient shall not use the Data except as authorized under this Agreement. The Data will be used solely to conduct the Project and solely by Recipient Scientist and Recipient's faculty, employees, fellows, students, and agents ("Recipient Personnel") and Collaborator Personnel (as defined in Attachment 3) that have a need to use, or provide a service in respect of, the Data in connection with the Project and whose obligations of use are consistent with the terms of this Agreement (collectively, "Authorized Persons").</li> <li>4) Except as authorized under this Agreement or otherwise required by law, Recipient agrees to retain control over the Data and shall not disclose, release, sell, rent, lease, loan, or otherwise grant access to the Data to any third party, except Authorized Persons, without the prior written consent of Provider. Recipient agrees to establish appropriate administrative, technical, and physical safeguards to prevent unauthorized use of or access to the Data and comply with any other special requirements relating to safeguarding of the Data as may be set forth in Attachment 2.</li> <li>5) Recipient agrees to use the Data in compliance with all applicable laws, rules, and regulations, as well as all professional standards applicable to such research.</li> <li>6) Recipient is encouraged to make publicly available the results of the Project. Before Recipient submits a paper or abstract for publication or otherwise intends to publicly disclose information about the results of the Project, the Provider will have thirty (30) days from receipt to review proposed manuscripts and ten (10) days from receipt to review proposed abstracts to ensure that the Data is appropriately protected. Provider may request in writing that the proposed publication or other disclosure be delayed for up to thirty (30) additional days as necessary to protect proprietary information.</li> </ol>	

Agreement ID: 2023-0104-D

- 7) Recipient agrees to recognize the contribution of the Provider as the source of the Data in all written, visual, or oral public disclosures concerning Recipient's research using the Data, as appropriate in accordance with scholarly standards and any specific format that has been indicated in Attachment 1.
- 8) Unless terminated earlier in accordance with this section or extended via a modification in accordance with Section 13, this Agreement shall expire as of the End Date set forth above. Either party may terminate this Agreement with thirty (30) days written notice to the other party's Authorized Official as set forth below. Upon expiration or early termination of this Agreement, Recipient shall follow the disposition instructions provided in Attachment 1, provided, however, that Recipient may retain one (1) copy of the Data to the extent necessary to comply with the records retention requirements under any law, and for the purposes of research integrity and verification.
- 9) Except as provided below or prohibited by law, any Data delivered pursuant to this Agreement is understood to be provided "AS IS." PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE DATA WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Notwithstanding, Provider, to the best of its knowledge and belief, has the right and authority to provide the Data to Recipient for use in the Project.
- 10) Except to the extent prohibited by law, the Recipient assumes all liability for damages which may arise from its use, storage, disclosure, or disposal of the Data. The Provider will not be liable to the Recipient for any loss, claim, or demand made by the Recipient, or made against the Recipient by any other party, due to or arising from the use of the Data by the Recipient, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the Provider. No indemnification for any loss, claim, damage, or liability is intended or provided by either party under this Agreement.
- 11) Neither party shall use the other party's name, trademarks, or other logos in any publicity, advertising, or news release without the prior written approval of an authorized representative of that party. The parties agree that each party may disclose factual information regarding the existence and purpose of the relationship that is the subject of this Agreement for other purposes without written permission from the other party provided that any such statement shall accurately and appropriately describe the relationship of the parties and shall not in any manner imply endorsement by the other party whose name is being used.
- 12) Unless otherwise specified, this Agreement and the below listed Attachments embody the entire understanding between Provider and Recipient regarding the transfer of the Data to Recipient for the Project:
  - I. Attachment 1: Project Specific Information
  - II. Attachment 2: Data-specific Terms and Conditions
  - III. Attachment 3: Identification of Permitted Collaborators (if any)
- 13) No modification or waiver of this Agreement shall be valid unless in writing and executed by duly-authorized representatives of both parties.

Agreement ID: 2023-0104-D

14) The undersigned Authorized Officials of Provider and Recipient expressly represent and affirm that the contents of any statements made herein are truthful and accurate and that they are duly authorized to sign this Agreement on behalf of their institution.

By an Authorized Official of Provider:"

Name: Belia Ramos

Title: Chair of the Board of Supervisors

Contact Information for Formal Notices:

Name:" Latoya Akil

Address: Napa County Health and Human Services  
2751 Napa Valley Corporate Drive, Bldg B  
Napa CA 94558

Email:" Latoya.Akil@countyofnapa.org

Phone:" (707) 253-4715

By an Authorized Official of Recipient:"

DocuSigned by:

3/2/2023

*Dianna L. Francis*  
Name: Dianna L. Francis

Title: Intellectual Property Officer

Contact Information for Formal Notices:

Name:" Executive Director

Address:" UC Davis InnovationAccess  
1850 Research Park Drive, Suite 100  
Davis, CA 95618-6134

Email:" mta@ucdavis.edu

Phone:" 1(530)754-8649

Read &amp; Acknowledged:

DocuSigned by:

*Tara Niendam*  
Dr. Tara Niendam  
Associate Professor, UC Davis

Approved as to form:  
Napa County Counsel  
Dated: 1/24/2023

/S/ Rachel L. Ross

Rachel L. Ross, Deputy County Counsel

Agreement ID: 2023-0104-D

## Attachment 1

### Data Transfer and Use Agreement

#### Project Specific Information

#### 1. Description of Data:

Data on consumers of behavioral health services from the Provider. This will include past and current clients in the Napa County Aldea SOAR program, as well as individuals with similar diagnoses who utilized other behavioral health services in Napa County. The exact variables we collect will depend on what is available through the county:

Year and month of birth (not date)

Zip code

Demographics including: age, race, ethnicity, sex, gender, sexual orientation, insurance status (i.e. privately insured or Medi-Cal, not MRNs), education level, marital status, employment status, living arrangement, military service/veteran status, foster care/adoption, and preferred language

All diagnosis(es) (psychiatric, substance use, physical health) and date of diagnosis, including outcomes of eligibility assessments, e.g. intake and referral assessments

Dates and types of service provided (limited to dates of service between January 1, 2013 and December 31, 2019 and between June 1, 2021 and December 31, 2024), including information on the following types of services: outpatient, crisis residential, crisis stabilization, urgent care, long-term care, hospitalizations, substance use, referral, outreach, medications, any service-related data/code including but not limited to: service code, location code, facility code, EBP/supported services code, providers, provider types, and clinics associated with services received, law enforcement contacts, forensic services, and jail services, and self-reported data on symptoms, functioning, and other metrics of treatment goals and progress for a subset of clients (collected on surveys)

#### 2. Description of Project:

The Early Psychosis Learning Health Care Network is a multi-year project that connects early psychosis (EP) programs across California to improve early identification, diagnosis, clinical assessment, intervention effectiveness, service delivery, and health outcomes in clinics offering evidence-based specialty care to persons in the early stages of psychotic illness. Another major goal of the EP LHCN is to develop a sustainable network of California EP programs via a collaborative statewide evaluation to clarify the effect of the network and these programs on the consumers and communities that they serve. The EP LHCN is led by UC Davis in collaboration with UCSF, UCSD, and multiple California Counties. The initial infrastructure has been developed using MHSA Innovation funds and thus the proposal must comply with the regulatory and funding guidelines for evaluation as stipulated by the applicable MHSA funding regulations, contract deliverables, and best practices.

The EP LHCN will link multiple early psychosis clinical service programs and create a network using a core assessment battery of valid, low-burden measures and mHealth technology platform to collect client-level information as part of standard care, visualize such information via clinician dashboard for treatment planning, and integrate across clinics to provide de-identified data for evaluating statewide outcomes data. The core assessment battery will include standard measures of early psychosis clinical features, services, and treatment outcomes.

The design and approach of the different components of the EP LHCN must be shaped by the input of stakeholders, including mental health consumers and family members. This will be accomplished in part by collecting qualitative data that will include focus groups, stakeholder meetings & qualitative interviews with consumers, families, county staff and EP program staff to inform the implementation of LHCN and the evaluation, present findings, and assess satisfaction. We will assess consumer and provider skills, beliefs and attitudes around measurement-based care and use of LHCN in service delivery (pre- and post-LHCN implementation).

The proposed California network will contribute these systematically collected clinical outcomes from participating community and university EP clinics, to enhance the development of a national EP network, supported by the NIMH EPINET program. EPINET The Early Psychosis Intervention Network (EPINET) is a 5-year project that connects regional hubs to a national network of EP programs. EPI-CAL is California's regional hub. Data collected within the LHCN requires individuals to make choices about sharing their data outside the clinic, including with UC Davis for the statewide evaluation and to the EPINET National Data Coordinating Center for research. This is optional and data will only be shared if users opt in. The project will also include development and validation of a measure of the Duration of Untreated Psychosis (DUP) that is feasible for use in community settings.

An additional component of the LHCN project is to identify, describe, and analyze the costs incurred by providing early psychosis clinical services, the outcomes associated with such a program, and the costs associated with those outcomes for individuals served by each program in each county. We will also examine services and costs associated with similar individuals served elsewhere in the county. This is will include past and current clients in the EP program, as well as individuals with similar diagnoses who utilized other behavioral health services in Napa County.

This Statewide EP Evaluation, LHCN, and NIMH EPINET all primarily aim to 1) increase the quality of mental health services, including measurable outcomes, and 2) introduce a mental health practice or approach that is new to the overall mental health system.

#### 3. Provider Support and Data Transmission:

Provider shall transmit the Data to Recipient: (select one) ☒ electronically or ☐ by mail to:

Name:	GoAnywhere Portal
Address:	For questions please contact Valerie Tryon and/or Tara Niendam
Email:	vltryon@ucdavis.edu; tniendam@ucdavis.edu
Phone:	

February 2024  
Agreement ID: 2023-0104-D

Upon execution of this Agreement, Provider shall send any specific instructions necessary to complete the transfer of the Data to the contact person listed above, if not already included below in this section of Attachment 1.

For the Provider Data, the format of the Data and a provision of a data dictionary will be finalized after meetings between the Provider and Recipient regarding available Data.

While Data transferred between EP program staff and Provider data analysts, it may be identifiable, all information will be de-identified and provided with a unique numeric ID before being submitted to the Recipient's evaluation team. Data will be shared through an encrypted and password protected server, which is housed on the Recipients secure servers. The Provider will not have access to any identifiable Data from the other participants. The Provider will receive instructions for uploading their Data to the secure portal (GoAnywhere, managed by the Recipients IT team). Each Provider personnel is given a unique login and is able to securely login into the GoAnywhere portal and upload their Data directly to the Recipients server. Upon receipt, Recipient will confirm with the Provider that all the Data was received

4. Reimbursement of Costs:

☒

None

☐

As governed by a separate written agreement between the parties  
Reimbursement Agreement Reference # (if required):

\_\_\_\_\_

☐

As set forth herein:

5. Disposition Requirements upon the termination or expiration of the Agreement:

Data should be destroyed after it has been utilized for the Learning Health Care Network.



Agreement ID: 2023-0104-D

**Attachment 2**  
**Data Transfer and Use Agreement**  
**Data-specific Terms and Conditions:**  
**Limited Data Set**

**Additional Terms and Conditions:**

1. Nothing herein shall authorize the Recipient to use or further disclose the Data in a manner that would violate the requirements of Provider under 45 CFR 164.514.
2. Recipient shall not use or further disclose the Data other than as permitted by this Agreement or as otherwise required by law.
3. Recipient shall report to the Provider any use or disclosure of the Data not provided for by this Agreement within 5 business days of when it becomes aware of such use or disclosure.
4. Provider is a HIPAA Covered Entity, and the Data will be a Limited Data Set as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). In accordance with Section 164.514(e)(2) of the HIPAA Privacy Rule, the Data shall exclude the following direct identifiers of the individual or of relatives, employers, or household members of the individual:
  - (i) Names;
  - (ii) Postal address information, other than town or city, State, and zip code;
  - (iii) Telephone numbers;
  - (iv) Fax numbers;
  - (v) Electronic mail addresses;
  - (vi) Social security numbers;
  - (vii) Medical record numbers;
  - (viii) Health plan beneficiary numbers;
  - (ix) Account numbers;
  - (x) Certificate/license numbers;
  - (xi) Vehicle identifiers and serial numbers, including license plate numbers;
  - (xii) Device identifiers and serial numbers;
  - (xiii) Web Universal Resource Locators (URLs);
  - (xiv) Internet Protocol (IP) address numbers;
  - (xv) Biometric identifiers, including finger and voice prints; and
  - (xvi) Full face photographic images and any comparable images.If the Data being provided is coded, the Provider will not release, and the Recipient will not request, the key to the code.
5. Recipient will not use the Data, either alone or in concert with any other information, to make any effort to identify or contact individuals who are or may be the sources of Data without specific written approval from Provider and appropriate Institutional Review Board approval, if required pursuant to 45 CFR 46. Should Recipient inadvertently receive identifiable information or otherwise identify a subject, Recipient shall promptly notify Provider and follow Provider's reasonable written instructions, which may include return or destruction of the identifiable information.
6. By signing this Agreement, Recipient provides assurance that relevant institutional policies and applicable federal, state, or local laws and regulations (if any) have been followed, including the completion of any IRB or ethics review or approval that may be required.
7. The parties agree to take such action as is necessary to amend this Agreement, from time to time, in order for the Provider to remain in compliance with the requirements of HIPAA.

Agreement ID: 2023-0104-D

**Attachment 3**  
**Data Transfer and Use Agreement**  
**Identification of Permitted Collaborators (if any)**

For all purposes of this Agreement, the definition of "Collaborator Personnel" checked below will pertain:

☐

"Collaborator Personnel" means: None. No collaborators are permitted on the Project.

-OR-

☒

"Collaborator Personnel" means as set forth below and agreed upon between the Parties:

"Collaborator Personnel" means faculty, employees, fellows, or students of the University of San Francisco and the University of San Diego, which (i) has agreed to collaborate in the Project, (ii) has faculty, employees, fellows, or students who have a need to use or provide a service in respect of the Data in connection with its collaboration in the Project, and (iii); has executed agreements that are substantially similar to this Agreement with the Recipient.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0226

**TO:** Board of Supervisors  
**FROM:** Jennifer Yasumoto, Director Health and Human Services Agency  
**REPORT BY:** Jennifer Ivancie, Staff Services Analyst I  
**SUBJECT:** Agreements for Medi-Cal Administrative Activities

### **RECOMMENDATION**

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign the following agreements for Fiscal Year 2022-2023 to provide outreach for and linkage to the Medi-Cal program and services as well as facilitate the Medi-Cal application process:

1. Agreement No. 230303B with Cope Family Center, Inc., for a maximum of \$50,295;
2. Agreement No. 230302B with Spirit of Unity in Napa, Inc., dba Puertas Abiertas, for a maximum of \$24,857;
3. Agreement No. 230308B with Parents Child Advocacy Network for a maximum of \$23,500; and
4. Agreement No. 230310B with Up Valley Family Centers of Napa Valley, Inc., for a maximum of \$11,775.

### **EXECUTIVE SUMMARY**

Approval of today's actions will enable HHSA to continue a community-wide effort to reach and enroll uninsured and potentially eligible residents in Medi-Cal coverage and link them to needed health and/or behavioral health services for Fiscal Year 2022-2023. The essential component of this effort is subcontracting with qualified and interested Community Based Organizations (CBOs) to perform Medi-Cal Administrative Activities (MAA).

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Health & Human Services Public Health

Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	There is no mandate to contract with these providers. However, these agreements will allow HHSA to continue to support a community-wide effort for outreach and enroll uninsured and potentially eligible residents in Medi-Cal coverage and link them to needed health and behavioral health services.
Is the general fund affected?	No
Future fiscal impact:	None, these Agreements terminate on June 30, 2023, and are included in the approved Fiscal Year 2022-2023 budget.
Consequences if not approved:	Contractors will be unable to be reimbursed for additional outreach and facilitation of application activities performed in the community and HHSA will be unable to claim the providers' portions from the agreements that provide outreach and facilitation of application activities, which are reimbursable by MAA.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit
Additional Information	None

## **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

MAA, provided for in the Medi-Cal State Plan and implemented through the 1995 Medi-Cal Administrative Claiming (MAC) agreement, are the activities that support the overall Medi-Cal system such as connecting potential individuals to eligibility and services, planning related to system capacity, and general administration. The Medi-Cal State Plan identifies Department of Health Care Services (DHCS) as the single state agency responsible for administering the federal Medicaid program (Medi-Cal in California) and lays out the eligibility criteria for beneficiaries and services that can be provided. Essentially, every activity and service that is to be claimed for Federal Financial Participation (FFP) must be covered in the State Plan. The Local Government Agency (LGA), or the designated entity responsible for administering MAA locally, is HHSA. The LGA may subcontract with CBOs and other local agencies to perform MAA.

Currently, many CBOs are the first doors that low-income individuals and families enter for services, information, referrals, and facilitation of applications for public assistance. Services such as these may be reimbursable under the MAA program. The CBO's represented in these agreements are well regarded by the communities they serve and are very accessible to the target populations, making them the perfect vehicle to have a positive, proactive impact in reaching the uninsured. These agreements are funded with MAA reimbursements that HHSA claims based on MAA claimable activities performed by these CBO's. In order for HHSA to claim the FFP from DHCS, it must expend up-front Certified Public Expenditures (CPE) to pay for the services. CPE is provided by county contributions, the Tobacco Master Settlement Agreement funds (MSA), and Mental Health Services Act (MHSA) grants. These contract maximums represent the costs of providing the

services and these agreements will enable the CBOs to continue their Medi-Cal outreach and enrollment efforts.

These agreements are being presented to the Board at this time because they are based on the amount of available CPE which is not known until near the end of the fiscal year. The funds used to support the work include MSA, MHSA, and reimbursement received from DHCS for the prior year's MAA expenditure. The contract Scope of Work and Compensation cannot be determined until the funding amounts are known.

All agreements are with local vendors.

**NAPA COUNTY AGREEMENT NO. 230303B  
PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT (the "Agreement")** is made and entered into as of the 1<sup>st</sup> day of July 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and **COPE FAMILY CENTER**, a California nonprofit corporation, whose mailing address is 707 Randolph Street, Napa, CA 94559, hereinafter referred to as "CONTRACTOR." COUNTY and CONTRACTOR may be referred to below collectively as "Parties" and individually as "Party."


**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services in order for CONTRACTOR to provide assistance with outreach, enrollment, retention, and utilization of Medi-Cal for all potentially eligible children/families throughout Napa County; and CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein;

**TERMS**

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the Terms and Conditions and their own Exhibits, which together are attached hereto and incorporated by this reference as though set forth in full herein. The Section numbers of any portion of this Agreement may at times be referred to either as "Sections" or "Paragraphs" interchangeably.

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

<b>NAPA COUNTY</b> , a political subdivision of the State of California	<b>CONTRACTOR</b>
By _____ <b>BELIA RAMOS</b> , Chair of the Board of Supervisors	 MICHELE GRUPE, Executive Director
ATTEST: NEHA HOSKINS, Clerk of the Board	2/27/2023
By: _____	
DATE APPROVED BY THE BOARD: _____	
Processed by: _____ Deputy	

Maximum Amount of this Agreement: \$50,295	APPROVED AS TO FORM BY NAPA COUNTY COUNSEL  By: <i>Corey S. Utsurogi</i> Date: 2/24/23
Term Expires: June 30, 2023	
Automatic renewal of term does not apply	



## **TERMS AND CONDITIONS OF NAPA COUNTY AGREEMENT NO. 230303B**

### **SECTION 1. Contract Administration**

For purposes of this Agreement, the following shall apply:

- 1.1 “Department” shall mean: Health and Human Services Agency
- 1.2 “Director” shall mean the person elected or appointed to the chief management position of the Department.
- 1.3 “Contract Administrator” shall be: Contracts Analyst or such other person as designated by the Department Director. The address for COUNTY’s Contract Administrator shall be: 2751 Napa Valley Corporate Drive, Building B, 2<sup>nd</sup> Floor, Napa, CA 94559.
- 1.4 The Program Manager for COUNTY shall be: Christine Wu, M.D., Public Health Officer
- 1.5 The Contract Contact Person for CONTRACTOR shall be: Michele Grupe, 707 Randolph Street, Napa, CA 94559
- 1.6 CONTRACTOR is a ☐ sole proprietor ☐ partnership ☒ corporation ☐ public agency ☐ other (specify) .
- 1.7 The source of funding for this Agreement shall be: Health and Human Services Agency General Fund, Mental Health Services Agreement (MHSA), and Master Services Agreement (MSA)
- 1.8 In entering into this Agreement, CONTRACTOR acknowledges and agrees to abide by the applicable terms of the following COUNTY-entity agreements, and as they may amended from time to time: Department of Health Care Services- Napa County Agreement No. 230296B

These agreements are on file with the Napa County Clerk of the Board of Supervisors and may be accessed at <https://www.countyofnapa.org/DocumentCenter/> under “Departments/Health and Human Services/Administration/Contracts and Administration Documents” (See also Section 2, Paragraphs 2.15(b)(2) and 2.35)

### **SECTION 2. General Terms and Conditions.**

Attached hereto and incorporated by this reference as Exhibit C is “SECTION 2. General Terms and Conditions – Version 12”, which shall be referred to herein as the “General Terms and Conditions” and which shall apply to this Agreement unless otherwise specifically limited or excluded by more specific provisions.

Due to changes in the laws, future versions of General Terms and Conditions shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR, effective within such time period as is designated in Paragraph 2.10 (Other Termination) plus 15 days or as mandated by local, state or federal laws or regulations, whichever date is sooner.

### **SECTION 3. Specific Terms and Conditions.**

The following Specific Terms and Conditions provide additional terms and conditions or modify

the General Terms and Conditions of this Agreement. A Specific Term and Condition shall control if a conflict exists with a General Term and Condition.

3.1 The following Specific Terms and Conditions apply when CONTRACTOR's obligations under this Agreement involve the following as designated by an "X":

☒ (a) Contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (General Terms and Conditions Paragraph 2.8(b) applies).

☐ (b) Construction or pre-construction related services (General Terms and Conditions Paragraph 2.19(e) applies).

☐ (c) Work on or the supplying of any software systems or equipment containing or suspected of containing clocks or embedded chips functioning as or dependent upon the use of clocks or calendars (General Terms and Conditions Paragraph 2.29 applies).

☒ (d) Services covered by a Federal Health Care Program (General Terms and Conditions Paragraph 2.31 applies).

☐ (e) Services covered by a State Medi-Cal Specialty Mental Health Program (General Terms and Conditions Paragraph 2.32 applies).

☐ (f) Mental Health Activities (General Terms and Conditions Paragraph 2.33 applies).

☒ (g) Services involving the receipt, use or disclosure of protected health information: A determination has been made by COUNTY's Privacy Officer that CONTRACTOR shall not provide services under this Agreement as a Business Associate to COUNTY. General Terms and Conditions Paragraph 2.34(b) does not apply to this Agreement.

☐ (h) Services provided under COUNTY's Managed Care Provider Program, which shall be subject to all the terms and conditions set forth in the Napa County Mental Health Managed Care Provider Manual, herein incorporated by reference and on file with the Clerk of the Napa County Board of Supervisors.

☐ (i) Services as a provider for which CONTRACTOR has submitted a "Provider Application," which CONTRACTOR warrants that the information contained in said application is accurate and understands that any inaccuracies may be grounds for termination of this Agreement by COUNTY. CONTRACTOR authorizes COUNTY to consult with third parties, including but not limited, to the National Practitioner Data Bank or other applicable licensing boards.

☐ (j) Services involving the use or disclosure of personally identifiable information that are performed as a subcontractor under COUNTY's contract with another entity when that contract requires COUNTY to include its applicable terms in COUNTY's subcontracts. (General Terms and Conditions Paragraph 2.35 applies.)

☐ (k) Services determined by the Department Director to be covered by Department's Code of Ethics. (General Terms and Conditions Paragraph 2.38 applies.) CONTRACTOR understands that, by entering into this Agreement, CONTRACTOR acknowledges that CONTRACTOR has received, read, and understands the Code of Ethics, and agrees to abide by the terms therein as applicable to CONTRACTOR's activities under this Agreement. Department shall provide CONTRACTOR with copies of Department's Code of Ethics prior to

the execution of the Agreement. CONTRACTOR further understands that on an annual basis CONTRACTOR shall provide written certification to Department that CONTRACTOR has received, read, understands, and will abide by Department's Code of Ethics.

[X] (l) Services have been determined by the Department Director, or may be determined at a later date, that CONTRACTOR is a subrecipient or pass-through entity and is therefore required to meet all of the requirements found in 2 C.F.R. § 200.331. (General Terms and Conditions 2.40 applies.) COUNTY shall notify CONTRACTOR in accordance with General Terms and Conditions Paragraph 2.13 (Notices), of any change in designation as a subrecipient, and any subsequent increase to the amount of Federal funding CONTRACTOR shall receive under the terms of this Agreement. CONTRACTOR shall be bound thereby upon receipt of notice.

### 3.2 Source Funding.

(a) Change in Source Funding. Paragraph 1.7 may be unilaterally modified by COUNTY upon written notice to CONTRACTOR who shall be bound thereby immediately upon receipt. The Department Director is delegated the authority to modify Paragraph 1.7 and provide such written notice, but may exercise such authority only after consultation with, and concurrence of, the Napa County Counsel and the Napa County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Napa County Board of Supervisors to modify Paragraph 1.7.

(b) Amendment to Source Funding Agreement. If Paragraph 1.7 identifies a funding source agreement, then any amendment to the funding source agreement shall be automatically incorporated and made a part of this Agreement, effective in accordance with the amended funding source agreement. As a subcontractor of COUNTY, CONTRACTOR shall be bound by the applicable terms of the funding source agreement, and any amendments thereto.

3.3 Statement of Economic Interests. By authorizing its Chair to execute this Agreement on its behalf, COUNTY's Board of Supervisors hereby determines in writing on behalf of COUNTY that CONTRACTOR has been hired to perform a range of duties so limited in scope as to not be required to comply with the disclosure obligations set forth in Paragraph 2.23(b).

3.4 COUNTY delegates its authority to the Director of the Health and Human Services Agency to approve future amendments to Exhibits A and B, attached to this Agreement, provided that any such amendment does not materially alter the nature of the services to be provided or increase the maximum compensation available under this Agreement.

3.5 Term of Agreement. Section 2.1 (b) of the General Terms and Conditions does not apply to this Agreement. The term of this Agreement shall commence on the date written on page 1 and shall expire of **June 30, 2023**, unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Termination for Convenience) or 2.23 (a) (Covenant of No Undisclosed Conflict). The obligations of the Parties under Paragraphs 2.7 (Insurance) and 2.8 (Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes) and 2.21 (Access to Records/Retention).

**SECTION 4. Incorporated Documents.**

The following documents are incorporated herein by this reference and attached hereto and labeled as the following Exhibit letters:

Exhibit A: Scope of Work

Exhibit B: Compensation and Financial Reporting

Exhibit C: "Section 2, General Terms and Conditions, Version 12"

Exhibit D(F): Department of Health Care Services "Special Terms and Conditions"

Exhibit E: Contractor's Privacy and Security Commitments

## **EXHIBIT A** **SCOPE OF WORK**

### **MEDI-CAL ADMINISTRATIVE ACTIVITIES**

Medi-Cal Administrative Activities, or MAA, are activities performed that are necessary for the proper and efficient administration of the Medi-Cal State Plan. The Local Government Agency (LGA), or the designated entity responsible for administering MAA locally, is Napa County Health and Human Services Agency (HHSA). The LGA may subcontract with community-based organizations to perform MAA.

In FY 13-14 Napa County HHSA launched a community-wide effort to outreach and enroll uninsured and potentially eligible residents in Medi-Cal coverage and to link them to needed health/behavioral health services. The essential component of this effort is subcontracting with qualified and interested CBOs to link Medi-Cal eligible and potentially eligible individuals with Medi-Cal covered services as well as assist in the Medi-Cal application process. Currently, many CBOs are the first place low-income individuals and families go for services including: Medi-Cal and Medi-Cal covered service information, referral and facilitation of the Medi-Cal application. Napa County recognizes the unique relationship that CBOs have with the Medi-Cal eligible population and wishes to maximize this relationship in assuring the availability and accessibility of Medi-Cal services.

Eligibility for Medi-Cal was expanded under the Affordable Care Act and more residents are eligible for Medi-Cal. This project intends to have a positive, proactive impact in reaching the uninsured by leveraging the effectiveness that CBOs have in linking people to the appropriate services within the county. The project also intends to ensure there is a greater chance that anyone who needs health/behavioral health care successfully connects and engages in those services.

As a participant in this project, CONTRACTOR is expected to carry out the duties specified below to ensure to the greatest extent practicable that: Uninsured Napa residents who are eligible for Medi-Cal coverage receive it and access the care they need.

#### **Type of MAA Activities to be performed:**

- 1) **Allowable Medi-Cal Outreach**: This activity may consist of discrete campaigns or may be an ongoing activity. This activity is directed to groups or individuals targeted to two goals:
  - Bringing potentially eligible people into the Medi-Cal system for the purpose of determining Medi-Cal eligibility; and
  - Bringing Medi-Cal eligible people into Medi-Cal services.

Outreach may consist of discrete campaigns or may be an ongoing activity, such as: sending teams of employees into the community to contact homeless alcoholics or drug abusers; establishing a telephone or walk-in service for referring persons to Medi-Cal services or eligibility offices; operating a drop-in community center for underserved populations, such as minority teenagers where Medi-Cal eligibility and service information is disseminated.

The following activities describe how outreach shall be performed:

- a. Outreach campaigns directed to the entire population to encourage potential Medi-Cal eligibles to apply for Medi-Cal, These campaigns are Medi-Cal only eligibility outreach campaigns.
- b. Outreach campaigns directed toward bringing Medi-Cal eligibles into Medi-Cal covered services. In such campaigns, the language should clearly indicate that the message is directed to only persons eligible for Medi-Cal, and not the general public. These campaigns are service campaigns, targeted to specific Medi-Cal services, such as Early and Periodic Screening, Diagnosis and Treatment (EPSDT).
- c. Informing children and their families on how to effectively access, use and maintain participation in all health resources under the Medi-Cal program.
- d. Informing individuals or the general public about the benefits and services that the Medi-Cal program offers and encouraging and referring them to apply for Medi-Cal benefits.
- e. Providing initial referral assistance to families and individuals to Medi-Cal services.

Note: A health education program or campaign may be allowable as a Medi-Cal administrative cost if it is targeted specifically to Medi-Cal services and for Medi-Cal eligible individuals, such as an educational campaign on immunization addressed to parents of Medi-Cal children.

### **Performance Targets**

CONTRACTOR shall participate in at least 20 outreach events.

CONTRACTOR shall outreach to at least 800 individuals, providing information about Medi-Cal coverage and Medi-Cal covered services.

CONTRACTOR shall refer and successfully link at least 2000 individuals to Medi-Cal coverage and/or Medi-Cal covered services.



### **Quarterly Reporting**

CONTRACTOR shall provide quarterly reports as indicated in the schedule included in Exhibit B, "COMPENSATION." Reports will include documentation to support the number and type of outreach events (e.g. flyers, brochures, dates and announcements of events) and the number of individuals and/or families reached through ongoing outreach efforts. The reports will also include documentation to support the number of individuals and/or families linked to Medi-Cal services (e.g. client count). Finally, the reports will include certification that costs incurred were directly related to the provision of MAA allowable activities.

### **Compliance with MAA Requirements**

CONTRACTOR shall comply with MAA requirements such as completing mandated covered contractor provisions and providing documentation that the organization is meeting requirements of the MAA claiming plan for which they are included such as submitting to HHSA the job descriptions for the staff performing MAA activities.

CONTRACTOR understands that the MAA activities and expenditures performed by CONTRACTOR are subject to the requirements set forth in the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link: [https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf) CONTRACTOR shall comply with the requirements of the DHCS MAA Operational Plan.

CONTRACTOR understands that the information presented to COUNTY by CONTRACTOR under this Agreement shall be used for filing a claim with the Federal Government for federal funds, and that any knowing misrepresentation constitutes a violation of the Federal False Claims Act.



**EXHIBIT B**  
**COMPENSATION**

**MEDI-CAL ADMINISTRATIVE ACTIVITIES**

COUNTY shall reimburse CONTRACTOR for Medi-Cal Administrative Activities (MAA) described in Exhibit A as follows:

**1. Amount**

CONTRACTOR shall be reimbursed up to a maximum of \$50,295 for Medi-Cal Outreach as described in Exhibit A. for the term of the Agreement. Funding to the CONTRACTOR shall be contingent upon availability of funds for source of certified public expenditure. CONTRACTOR shall have the flexibility of transferring expenditure amounts between line items (activities) in the Program Budget, provided that no transfer shall exceed twenty percent (20%) of the line from which transferred. Any transfer in excess of 20% per line must be approved in writing in advance by COUNTY Health Director or designee.

CONTRACTOR shall be able to verify that expenditures related to its provision of MAA activities represent accurately identifiable and eligible costs, and that CONTRACTOR has excluded any non-claimable non-salary costs in compliance with the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link:

[https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf)

**2. Certified Public Expenditure**

This Renewal Agreement is funded by County General funds, Tobacco Master Settlement Agreement funds that CONTRACTOR was awarded under Napa County Grant Agreement No. 230059B and 230077B and Mental Health Services Act funds that CONTRACTOR was awarded under Napa County Grant Agreement No. 210355B. CONTRACTOR may not use the funds received under the aforementioned Agreements to claim reimbursement for any other Federal program.

<b>ACTIVITY</b>	<b>Contract #230059B</b>	<b>Contract #230077B</b>	<b>Contract #210355B</b>	<b>This Agreement</b>
Medi-Cal Outreach	\$ 27,132	\$23,760	\$ 20,284	\$ 50,295

**3. Method of Payment**

CONTRACTOR must submit an invoice or claim form to the County Fiscal Analyst, not to exceed the contract maximum. Actual annual reimbursement shall be based on CONTRACTOR's actual cost, not to exceed the annual maximum operating budget amount in each Fiscal Year. The quarterly reports and invoices due, as noted below, shall identify the activities conducted and expenditures made during the previous quarter ending on the

last date of the calendar month prior to the report due date. Payment will be made following receipt of the report and invoice. COUNTY shall not release payments until CONTRACTOR has submitted reports for the previous quarter.

<b>CONTRACT PERIOD</b>	<b>REPORT/INVOICE DUE DATE</b>
July 1, 2022– September 30, 2022	Upon Contract Execution
October 1, 2022 – December 31, 2022	January 31, 2023
January 1, 2022– March 31, 2023	April 30, 2023
April 1, 2022 – June 30, 2023	July 15, 2023

CONTRACTOR shall, on each quarterly invoice, certify that the expenditures incurred represent accurate identifiable and eligible costs, and that CONTRACTOR's expenditures were made on eligible MAA claimable activities, as set forth in Exhibit A of this Agreement. CONTRACTOR shall provide certification in a manner, and on an invoice, provided by COUNTY.

#### **4. Contract Monitoring**

COUNTY will meet with CONTRACTOR during the initial months/quarters of this agreement to review documentation that supports MAA invoicing and to provide technical assistance as needed. CONTRACTOR shall meet at least once a year with COUNTY thereafter to coordinate and review fulfillments of contract terms, and address any potential impediments to the fulfillment of the terms of this agreement. Such review shall extend to an examination of type and quantity of services provided, interagency coordination, and any other issues pertinent to this agreement.

- CONTRACTOR is responsible for maintaining all documentation required for monitoring.
- CONTRACTOR shall request technical assistance from the COUNTY regarding elements of the contract with which they need assistance. COUNTY shall consider any such request and shall provide technical assistance to the CONTRACTOR if the COUNTY has the capacity and capability to do so. CONTRACTOR maintains responsibility for ensuring that its services and activities are in compliance with applicable regulations.
- COUNTY normally shall provide 30-day notice of the site visit to the CONTRACTOR and shall specify the documentation that will need to be available at the time of the visit.
- Under normal circumstances, the visit may require the review of the following documents: records that delineate the MAA activities from other activities, support full expenditure of funding and that expenditures were directly related to MAA activities, demonstrate covered contractor screening provisions have been met, and any other documentation the COUNTY may request to be reviewed to ensure CONTRACTOR meeting state and federal requirements delegated through the contract.
- COUNTY shall provide CONTRACTOR with the opportunity to respond to the COUNTY'S written report of the site visit prior to the report becoming final.

- If the final report identifies material variations between the CONTRACTOR'S activities and the requirements of the contract, the COUNTY may require the CONTRACTOR to prepare a written plan of action to address those variations.

**5. Program Name and Number for Federal Claiming**

Title 31- Money and Finance, Subtitle V – General Assistance Administration, Chapter 75 - Requirements for Single Audits, Section 7502 requires each pass-through entity provide the sub recipient program names and any identifying numbers from which such assistance is derived. The Catalog of Federal Domestic Assistance (CFDA) number for this federal program is 93.778, Medical Assistance Program.

**6. Disallowed Costs**

COUNTY shall withhold any payments for services for which documentation of activities and expenditures is not sufficient to claim the Federal Financial share of MAA.

CONTRACTOR shall reimburse COUNTY for all overpayments identified by CONTRACTOR, COUNTY and/or State or Federal oversight agencies as an audit exception. CONTRACTOR shall make any repayment based on audit exception(s) upon discovery of said exception(s). If reimbursement is required, CONTRACTOR shall reimburse COUNTY within 60 days of identification.

## EXHIBIT C

### SECTION 2. GENERAL TERMS AND CONDITIONS --VERSION 12

#### 2.1 **Term of the Agreement.**

(a) Term. The term of this Agreement shall commence on the date first written on page 1 and shall expire on the expiration date set forth on page 1 unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Other Termination) or 2.23(a) (Covenant of No Undisclosed Conflict).

(b) Automatic Renewal. The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the same terms and conditions, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30. COUNTY authorizes the Department Director to determine whether this Agreement shall not be renewed and to provide the written notice of the intention to not renew on behalf of COUNTY.

(c) Obligations Extending Beyond Term. The obligations of the parties under Paragraphs 2.7 (Insurance) and 2.8 (Hold Harmless/Defense/Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes), 2.21 (Access to Records/Retention), 2.31 (Compliance with Federal Health Care Program Requirements), 2.32 (Compliance with State Medi-Cal Specialty Mental Health Services Requirements), and 2.33 (Compliance with Mental Health Activities Requirements). To the extent the paragraphs referenced in this Paragraph 2.1 may be modified by Specific Terms and Conditions contained in SECTION 3 of this Agreement, the modifications shall also continue after the expiration date or early termination.

2.2 **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A."

#### 2.3 **Compensation.**

(a) Compensation/Maximum. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates and/or in the amount(s) set forth in Exhibit "B". The maximum payment for the initial term of this Agreement, and the successive maximum payments for each subsequent automatically renewed term, shall each be that maximum amount set forth on page 1; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

(b) Advance Funding.

1. Use of Funds. To the extent this Agreement may permit advance funding of services and expenses, use of funds delineated in this Agreement is limited to the term of performance unless otherwise modified in accordance with Paragraph 2.17

(Amendment/Modification). COUNTY may at its discretion recapture funds obligated under the authority of this Agreement if expenditure plans are not being met.

2. Reversion of Funds. If funds awarded to CONTRACTOR have not been expended in accordance with this Agreement and COUNTY has determined after consultation with CONTRACTOR that funds will not be spent in a timely manner, such funds will revert to COUNTY for that reason and to the extent permitted by and in a manner consistent with federal and state law, regulations, and policies.

(c) Availability of Funds. It is mutually understood that, for the benefit of both parties, this Agreement may have been written before ascertaining the availability of congressional and/or state legislative appropriation of funds in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made. If funding of this Agreement is dependent upon the availability of congressional and legislative appropriation of funds, then:

1. This Agreement shall be deemed automatically terminated if the Congress and and/or the State Legislature do not appropriate funds needed for this Agreement;

2. At COUNTY's discretion, this Agreement may be deemed automatically terminated or this Agreement may be modified or amended in accordance with Paragraph 2.17 (Amendment/Modifications), if the Congress and/or State Legislature do not appropriate sufficient funds needed for this Agreement; and

3. This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or State Legislature, or any statute enacted by the Congress or State Legislature, that may in any manner affect the provisions, terms, or funding of this Agreement.

(d) COUNTY may withhold any compensation due CONTRACTOR as an offset for any revenues lost arising from an act or omission in billing or documentation practices by CONTRACTOR. CONTRACTOR shall make COUNTY whole for any such lost revenues.

#### 2.4 **Method of Payment.**

(a) Invoices. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR'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 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. Where expense reimbursement is sought, the invoice shall describe the nature and cost of the expense, the task(s) if any to which the expense was related, and the date incurred. CONTRACTOR shall submit invoices not more often than monthly to the Contract Administrator. After review and approval as to form and content, the invoice shall be submitted to the Napa County Auditor no later than fifteen (15) calendar days following receipt.

(b) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Contract Administrator upon request during the term of this Agreement in a form 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 CONTRACTOR within the State of California.

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

**2.6 Specific Performance.** It is agreed that CONTRACTOR, including the agents, employees and authorized subcontractors of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

**2.7. Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability Insurance. CONTRACTOR 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:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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 CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. 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 of Coverage. All insurance coverages referenced in 2.7(b), 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 CONTRACTOR with the Health and Human Services Agency prior to commencement of performance of any of CONTRACTOR's duties.

(1) 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, other termination, or material change, 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 2.7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 2.7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR 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 CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR 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 2.7.

(f) Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve CONTRACTOR, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

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

(a) In General. To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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) Obligations Relating to Criminal Background Checks.

1. If CONTRACTOR's obligations under this Agreement involve contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (hereafter in this paragraph referred to as "third persons"), then CONTRACTOR shall investigate by all lawful means, including but not limited to obtaining information from official government sources as the result of taking fingerprints, the criminal background of each and all of its officers, agents, employees, interns, and volunteers, however denominated (hereafter, "employees"), who

will have direct personal contact with, or provide direct personal services to, third persons in the performance of this contract. Depending upon the information acquired by its investigation, CONTRACTOR shall not allow any of its employees to have personal contact with, or provide direct personal services to, third persons where it may reasonably be concluded as a result of its investigation that an employee should not have such contact or provide such service. Nothing herein requires CONTRACTOR to investigate the criminal background of an employee who is currently licensed by the State of California and whose license requires a criminal background investigation.

2. Notwithstanding anything to the contrary in (a) or (c), CONTRACTOR shall defend and indemnify COUNTY and its officers, agents and employees from any and all claims, actions, settlements or judgments of whatever kind which may arise from the failure of CONTRACTOR to conduct the criminal background investigation described in this subparagraph (b) or from the failure of CONTRACTOR after the investigation to reasonably disallow an employee from having such personal contact or providing such direct personal service.

(c) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

## 2.9 Termination for Cause.

(a) 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 written notice to the defaulting party in the manner set forth in Paragraph 2.13 (Notices).

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

## 2.10 Other Termination.

(a) This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party 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

COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination.

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

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

(a) Upon expiration or termination of this Agreement, if and to the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(b) 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 COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR 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 CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof.

(c) Notwithstanding the provisions set forth in subparagraph (b ) above, if the services involve development or improvement of previously patented inventions or previously copyrighted software, upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(d) CONTRACTOR 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 notice of termination and completed satisfactorily prior to the effective date of the

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

**2.12 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.

**2.13 Notices.**

(a) In General. Except as set forth in subparagraph (b) below with respect to notice of automatically adopted provisions, 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 notice sent by mail in the manner prescribed by this subparagraph 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. Any mailed notice, demand, request, consent, approval or communication that COUNTY desires to give to CONTRACTOR shall be addressed to CONTRACTOR's Contract Contact Person at the mailing address set forth in SECTION 1 of this Agreement. Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to COUNTY shall be addressed to COUNTY's Contract Administrator at the mailing address set forth in SECTION 1 of this Agreement. Either party may change its address by notifying the other party of the change of address.

(b) Provisions Adopted Automatically. COUNTY reserves the right to provide notice to CONTRACTOR via facsimile of terms, which automatically become part of this Agreement upon approval by the Napa County Board of Supervisors. Notice delivered by facsimile shall be deemed to have been received on the date a successful delivery confirmation report is generated.

(c) Waiver of Notice by CONTRACTOR. If receipt of notice is refused by CONTRACTOR or if notice is undeliverable due to CONTRACTOR's failure to provide a change of address, notice shall be deemed waived and COUNTY may proceed as though notice were accomplished.

**2.14 Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. Future versions of the following policies shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR pursuant to Paragraph 2.13. CONTRACTOR 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 COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment."

(c) Drug and Alcohol Policy.

(d) Napa County Information Technology Use and Security Policy. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

## 2.15 Confidentiality.

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to or created by CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive or create, if any, in trust and confidence, except with the prior written approval of COUNTY, as expressed through the Department Director. Upon cancellation or expiration of this Agreement, to the extent permitted by law, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR agrees to adhere to the applicable terms regarding the privacy and security of Protected Information as set forth in the COUNTY-entity agreements identified in Paragraph 1.8 of Section 1 of this Agreement (Contract Administration). CONTRACTOR shall also observe and comply with those requirements set forth in "Addendum For Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(3) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 2.15.



(4) CONTRACTOR agrees to notify COUNTY, by and through the Napa County Privacy Officer at 2751 Napa Valley Corporate Dr. Suite B, Napa, CA 94559, or 707.253-4715, immediately in the following instances:

(A) Upon the discovery of a breach of PHI/PII/other Protected Information in electronic or other media;

(B) Upon the discovery that PHI/PII/other Protected Information was, or is reasonably believed to have been accessed or acquired by an unauthorized person;

(C) Upon the discovery of a suspected security incident that involves PHI/PII/other Protected Information; or

(D) Upon the discovery of any breach, security incident, intrusion, or unauthorized access, use, or disclosure of PHI/PII/other Protected Information.

(5) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of PHI/PII/other Protected Information, or its unauthorized access to or disclosure of PHI/PII/or other Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

(c) To the extent CONTRACTOR creates, is provided, or has access to applications and records concerning any individual made or kept by COUNTY in connection with public social services (records) as defined in California Welfare & Institutions Code Section 10850, CONTRACTOR shall maintain the confidentiality of such records in accordance with Section 10850, except as otherwise permitted by COUNTY and as necessary for purposes of providing services under this Agreement.

(d) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY's data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COUNTY data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COUNTY data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COUNTY for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COUNTY must bear.

(e) HHS Contractor Security Requirements. Whenever CONTRACTOR utilizes their own equipment to perform work under this Agreement, CONTRACTOR warrants that they have reviewed "HHS Contractor Security Requirements" and can adhere to the minimum standards at all time. A copy of "HHS Contractor Security Requirements" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

## 2.16 No Assignments or Subcontracts.

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

## 2.17 Amendment/Modification.

(a) Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only COUNTY, by the Department Director (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed \$10,000), or by COUNTY's Purchasing Agent (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed the maximum aggregate amount for Purchasing Agent contracts as specified by Napa County Code section 2.36.040 (G)) or by COUNTY's Board of Supervisors (in all other instances), in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by "Exhibit A." Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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.

(b) Notwithstanding anything to the contrary in (a), this Agreement may be unilaterally modified by COUNTY upon written notice to CONTRACTOR under the following circumstances:

1. There is a decrease in state or federal funding needed for this Agreement;
2. There is a no-cost extension of the end date of the Agreement as authorized by a state or federal funding source; or
3. There is a change in state/federal law or regulation requiring a change in a provision of this Agreement.

(c) The Department Director is delegated the authority to modify this Agreement in accordance with subparagraph (b), but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to modify this Agreement under subparagraph (b).



## 2.18 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.

2.19 **Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. **CONTRACTOR acknowledges its independent duty to be and to remain informed of all changes in such laws without reliance on COUNTY to provide notice of such changes.** 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, CONTRACTOR 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 (over 40), 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 (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS, use of family care leave, or political affiliation or belief. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Federal Grant Source. Notwithstanding anything to the contrary in this Agreement, if the funds for this Agreement are derived from a grant from a federal agency, pursuant to 29 CFR 97.36(i)(8) and (9), CONTRACTOR is hereby notified of, and shall comply with the requirements and regulations imposed by the federal granting agency with respect to any discovery or invention which arises or is developed pursuant to this Agreement, and pertaining to any copyrights or rights in data created or otherwise developed when engaging in activities of CONTRACTOR under this Agreement. The requirements and regulations imposed by the federal granting agency are set forth in the original grant agreement specified in Section 1 of the Agreement and are incorporated by reference herein. The original grant agreement is on file with the Clerk of the Board of Supervisors.

(d) Prevailing Wages. If the services to be provided relate to construction or pre-construction-related services, including but not limited to testing, surveying, and inspection, then this Agreement includes the following provisions:

(1) Affected work. CONTRACTOR shall comply with Labor Code sections 1774 and 1775 in relation to payment of prevailing wages for any portion of the required work performed under this Agreement on or after January 1, 2002 relating to construction design, testing, surveying and/inspection work, and construction if the State Director of Industrial Relations has established prevailing wage rates for the types of work involved.

(2) Prevailing wages rates. In accordance with the provisions of Section 1774 of the Labor Code of the State of California, to the extent the Director of Industrial Relations has established the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation and similar purposes) for the above-described portions of the work required under this Agreement, such rates of wages will be on file and available for inspection at the office of the County of Napa Department of Public Works, 1195 Third Street, Room 201, Napa, California.

(3) Payroll records. In accordance with Labor Code section 1776, a copy of all payrolls for work subject to this subparagraph shall be submitted weekly to COUNTY's Director of Public Works. Payrolls shall contain the full name, address and social security number of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. They shall also indicate apprentices and ratio of apprentices to journeymen. The employee's address and social security number need only appear on the first payroll on which his name appears. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or his agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the contract. The "Statement of Compliance" shall be on forms furnished by the Director of Public Works or his designee or on any form with identical wording. CONTRACTOR shall be responsible for the submission of copies of payrolls of all subcontractors.

(4) Apprentices. CONTRACTOR shall be responsible for ensuring compliance with the provisions of Labor Code section 1777.5 relating to employment and

payment of apprentices for work under this Agreement relating to land surveying and/or construction inspection if the total compensation to be paid CONTRACTOR for such work is \$30,000 or more.

(e) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 2.19 in all such subcontracts as obligations of the subcontractor.

(f) Notwithstanding any other provisions of this contract, CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement.

**2.20 Taxes.** CONTRACTOR agrees to file all applicable federal and state tax returns or applicable withholding documents and to pay all applicable taxes or to 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

**2.21 Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records, including clinical documentation, for at least ten (10) years after COUNTY makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

**2.22 Authority to Contract.** CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement. The parties further warrant that the signatories to this Agreement are authorized to execute this Agreement on behalf of their respective parties and that any action necessary to bind each such party has been taken by that party prior to entering into this Agreement.

**2.23 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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY

may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement. The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors terminate this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 COUNTY, through a person authorized to execute this Agreement on behalf of COUNTY, or the Department Director, has determined in writing that CONTRACTOR, although holding a "designated" position as a 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. CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY's Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

**2.24 Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party's job openings where such publication or distribution is directed to the general public.

**2.25 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.

**2.26 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.

**2.27 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.



**2.28 Entirety of Contract.** This Agreement, including documents incorporated by reference and 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.

**2.29. Other Terms and Conditions [Reserved.]**

**2.30 Acknowledgment of Funds; Compliance with Government Code Section 7550.**

(a) **In General.** Because the monies provided by COUNTY are funded by taxpayer dollars, it is important that the public know the individuals and organizations that are receiving funds from COUNTY under this Agreement. Therefore, CONTRACTOR shall acknowledge funding received under this Agreement in statements or printed materials relating thereto. All printed materials shall contain the following information in a type size and style appropriate to the materials: "Made possible by funding provided by the County of Napa."

(b) **Compliance With Government Code Section 7550.** In addition, if the Scope of Work includes preparation of a document or written report and the total cost of the work is more than \$5,000, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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 as required by Government Code section 7550. 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.

**2.31 Compliance with Federal Health Care Program Requirements.** If CONTRACTOR will be performing services under this Agreement that are covered by a Federal Health Care Program, then:

(a) CONTRACTOR shall observe and comply with all applicable Federal Health Care Program Requirements, including but not limited to those requirements set forth in "Addendum For Contracts Involving Federal Health Care Programs—Revision of March 22, 2021." The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and is online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall attend and/or provide Compliance Trainings as required by the Department Director unless otherwise deemed exempt by the Department Director or designee thereof.

(c) CONTRACTOR shall make COUNTY whole for any revenues lost arising from an act or omission in billing practices by CONTRACTOR.

(d) CONTRACTOR warrants that no one providing services is an Excluded Individual as such term is defined for Federal Health Care Programs.

(e) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with the obligations imposed by the "Addendum for Contractors Involving Federal Health Care Programs". Said penalties and fines that may be



assessed are as follows: civil monetary penalties of \$11,000 per item or service; treble damages for the submission of claims for reimbursement from an excluded health care provider.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the Addenda in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR agrees to abide by COUNTY'S policies entitled "Whistleblower Protections", "The False Claims Act (Federal & State Statutes) & Other Administrative Remedies & Statutes", "Federal Anti-Kickback Prohibitions" and "Physicians Referrals – The Stark Law". The policies are on file with the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(i) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

### **2.32 Compliance with State Medi-Cal Specialty Mental Health Services Requirements.**

If CONTRACTOR, under this Agreement, is required to and performs services that are covered by a State Medi-Cal Specialty Mental Health Services Program, then:

(a) CONTRACTOR shall observe and comply with all applicable State Medi-Cal Specialty Mental Health Services Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Medi-Cal Specialty Mental Health Services-- Revision No. 1" for services performed on or after July 1, 2014. The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator, or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(c) CONTRACTOR is subject to any audits of its services or claims conducted by the Department, the California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(d) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, disallowances for payment or lost revenues identified and discovered by COUNTY that are attributable to CONTRACTOR's actions when performing its obligations under this Agreement, such as insufficient documentation by CONTRACTOR of Medical Necessity or billing errors by CONTRACTOR that preclude COUNTY from claiming the Federal Financial Participation share of Medi-Cal or State General Funds.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the applicable Addendum in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.33 Compliance with Mental Health Activities Requirements.** If CONTRACTOR, under this Agreement, is required to perform mental health activities, then:

(a) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(b) CONTRACTOR shall be subject to any audits of its services or claims conducted by Department, California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(c) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, lost revenues as identified and discovered by the COUNTY that are attributable to CONTRACTOR's performance under this Agreement such as CONTRACTOR's insufficient documentation of services as required by the Agreement.



(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable requirements.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party; CONTRACTOR shall include the provisions of this Paragraph in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.34 Compliance with Federal Health Insurance Portability and Accountability Act of 1996.** If CONTRACTOR shall perform services under this Agreement involving the receipt, use, or disclosure of protected health information, then:

(a) Federal and other applicable law. CONTRACTOR shall observe and comply with all applicable requirements of the Federal Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder by the U.S. Department of Health and Human Services (collectively referred to as "HIPAA"), and other applicable laws.

(b) HIPAA Business Associate Agreement. If applicable, CONTRACTOR shall comply with the terms and conditions of the HIPAA Business Associate Agreement previously entered into with COUNTY, which is incorporated by reference herein and on file with the Clerk of the Board of Supervisors.

(c) Use or Disclosure of Protected Health Information. CONTRACTOR may use or disclose protected health information for the purpose of performing functions, activities for or on behalf of COUNTY, as specified in this Agreement, provided that such use or disclosure would not violate HIPAA, if done by COUNTY, or the provisions of any applicable HIPAA Business Associate Agreement.

(d) Subcontractors. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall require compliance with all applicable HIPAA provisions, other applicable law, and any applicable HIPAA Business Associate Agreement(s) in such subcontracts as obligations of the subcontractor.

**2.35 Compliance With COUNTY's Obligations Under Contracts With Other Entities.** If CONTRACTOR under this Agreement shall perform services as a subcontractor under COUNTY's contract(s) with other entities, including, but not limited to State and Federal Agencies, and such services involve the use or disclosure of personally identifiable information, then:

(a) CONTRACTOR shall observe and comply with all applicable terms of COUNTY's contract(s) with other entities, including, but not limited to, those requirements set forth in "Addendum For Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with the obligations imposed by the "Addendum for Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities".

(c) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the "Addendum for Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" in all such subcontracts as obligations of the subcontractor.

**2.36 Napa Health Matters Listing.** If CONTRACTOR is an organization providing health, human, or social services of a type recognized for listing on the "Napa Health Matters" website, CONTRACTOR agrees to maintain a current and accurate listing on [www.NapaHealthMatters.org](http://www.NapaHealthMatters.org) for such services.

**2.37 Licensure Status.**

(a) License in Good Standing. If CONTRACTOR is providing services under this Agreement as a state-licensed professional, CONTRACTOR shall ensure that CONTRACTOR's professional license is in good standing with all applicable licensing boards. CONTRACTOR understands COUNTY may terminate the Agreement if CONTRACTOR fails to maintain a current professional license in good standing. For purposes of this Agreement, "license in good standing" means there is no suspension, revocation or probation for any reason (including the failure to pay licensing fees), nor any restriction upon the provisions of the license: including, but not limited to, restrictions placed by a licensing agency upon CONTRACTOR's license pursuant to any consent or settlement agreement or to an administrative decision of the licensing agency.

(b) Expiration of License. In the event that CONTRACTOR's professional license is not renewed on or before its expiration, CONTRACTOR shall neither provide nor be reimbursed for services pursuant to this Agreement commencing the day after license expiration and until CONTRACTOR's professional license is renewed. For purposes of this Agreement, renewal date is the date the licensing board issues a renewed license, and it is irrelevant whether the licensing board subsequently recognizes any lapse in licensure.

**2.38 Code of Ethics.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) has adopted a Code of Ethics. If the Department Director determines that the



HHS Code of Ethics applies to CONTRACTOR's activities under this Agreement, CONTRACTOR shall read, understand, and abide by the Code of Ethics, and CONTRACTOR shall on an annual basis provide written certification to HHSA that CONTRACTOR has received, read, understands, and will abide by HHSA's Code of Ethics. The Code of Ethics may be found online at [www.countyofnapa.org](http://www.countyofnapa.org) or may be obtained from HHSA upon written request.

**2.39 Electronic Billing System.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) operates an electronic billing system program, which seeks reimbursement from the State of California for the delivery of alcohol, drug abuse and mental health services. If CONTRACTOR provides any services related to alcohol, drug abuse or mental health services under the terms of CONTRACTOR's Agreement, CONTRACTOR agrees, upon request of the Director of HHSA or the Director's designee, to implement the COUNTY's sponsored electronic health record system as part of CONTRACTOR's requirement for the delivery of these services.

**2.40 Audit Report Requirements.** If COUNTY has determined that CONTRACTOR is a "subrecipient" (also known as a "pass-through entity") as defined in 2 C.F.R. § 200 et. seq., CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. § 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement. CONTRACTOR shall observe and comply with all applicable Audit Report Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Federal Awards." The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

**EXHIBIT D(F)**  
**Department of Health Care Services Special Terms and Conditions**

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

### Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	19. Novation Requirements
2. Travel and Per Diem Reimbursement	20. Debarment and Suspension Certification
3. Procurement Rules	21. Smoke-Free Workplace Certification
4. Equipment Ownership / Inventory / Disposition	22. Covenant Against Contingent Fees
5. Subcontract Requirements	23. Payment Withholds
6. Income Restrictions	24. Performance Evaluation
7. Audit and Record Retention	25. Officials Not to Benefit
8. Site Inspection	26. Four-Digit Date Compliance
9. Federal Contract Funds	27. Prohibited Use of State Funds for Software
10. Termination	28. Use of Small, Minority Owned and Women's Businesses
11. Intellectual Property Rights	29. Alien Ineligibility Certification
12. Air or Water Pollution Requirements	30. Union Organizing
13. Prior Approval of Training Seminars, Workshops or Conferences	31. Contract Uniformity (Fringe Benefit Allowability)
14. Confidentiality of Information	32. Suspension or Stop Work Notification
15. Documents, Publications, and Written Reports	33. Public Communications
16. Dispute Resolution Process	34. Compliance with Statutes and Regulations
17. Financial and Compliance Audit Requirements	35. Lobbying Restrictions and Disclosure Certification
18. Human Subjects Use Requirements	

#### 1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color,

religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts



by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## **2. Travel and Per Diem Reimbursement**

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization

from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

### 3. Procurement Rules

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

#### a. Equipment/Property definitions

Wherever the term equipment and/or property is used, the following definitions shall apply:

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.
- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

- (1) Equipment/property purchases shall not exceed \$50,000 annually.

To secure equipment/property above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be

delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
  - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
  - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
  - (c) Procurements shall be conducted in a manner that provides for all of the following:
    - [1] Avoid purchasing unnecessary or duplicate items.
    - [2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
    - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.

- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### **4. Equipment/Property Ownership / Inventory / Disposition**

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

- a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

- (1) **Reporting of Equipment/Property Receipt** - DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

- (2) **Annual Equipment/Property Inventory** - If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If

an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
  - (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
  - (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
  - c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
  - d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
    - (1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.
  - e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.
  - f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS

expense and according to DHCS instructions. Equipment and/or property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

**g. Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

**Automobile Liability Insurance**

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.



- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
  - [3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession,

DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

## 5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
  - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
  - (2) DHCS may identify the information needed to fulfill this requirement.
  - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
    - (a) A local governmental entity or the federal government,
    - (b) A State college or State university from any State,
    - (c) A Joint Powers Authority,
    - (d) An auxiliary organization of a California State University or a California community college,
    - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
    - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
    - (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
    - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address:  
<https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

- (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
  - d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
  - e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
  - f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
  - g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
  - h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:  
  

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
  - i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
  - j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

## 6. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

## 7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records
  - (1) for a period of three years from the date of final payment under this Agreement, and
  - (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

- e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

## **8. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

## **9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

## **10. Termination**

### **a. For Cause**

The State may terminate this Agreement, in whole or in part, and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

### **b. For Convenience**

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

## **11. Intellectual Property Rights**

### **a. Ownership**

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or



reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
  - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited

to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.

- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

#### **b. Retained Rights / License Rights**

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

#### **c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived

from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

**f. Warranties**

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
  - (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any

thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results

directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

**i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

**12. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt by law.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

**13. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

**14. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.



- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

## **15. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

## **16. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program

Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

- (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

## **17. Financial and Compliance Audit Requirements**

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:

- (1) *If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;* the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (2) *If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement,* the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (3) *If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 2 C.F.R. §§ 200.64, 200.70, and 200.90) and expends \$750,000 or more in Federal awards,* the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 C.F.R. 200.501 entitled "Audit Requirements". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
    - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
    - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
  - (4) If the Contractor submits to DHCS a report of an audit other than a 2 C.F.R. 200.501 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City,

County, or Special District within the State of California whereby the report will be retained by the funding program.

- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

## **18. Human Subjects Use Requirements**

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived

from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

## **19. Novation Requirements**

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

## **20. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and

- (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
- (5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
- (6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
- (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
- f. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

## **21. Smoke-Free Workplace Certification**

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.



- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

## **22. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

## **23. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

## **24. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

**25. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

**26. Four-Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**27. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**28. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

## **29. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

## **30. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

### 31. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
  - (1) Be necessary and reasonable for the performance of the Agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.

f. Earned/Accrued Compensation

- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
- (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

### 32. Suspension or Stop Work Notification

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.
  - (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
  - (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
    - (a) Cancel, extend, or modify the suspension or stop work notification; or
    - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

### **33. Public Communications**

“Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- A. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices.”

### **34. Compliance with Statutes and Regulations**

- a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.
- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

### **35. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of Title 31, U.S.C.)

- a. Certification and Disclosure Requirements
  - (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of Title 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled “Certification Regarding Lobbying”) that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
  - (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled “Standard Form-LLL ‘disclosure of Lobbying Activities’”) if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.



- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
  - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**Attachment 1  
State of California  
Department of Health Care Services**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Napa County

Name of Contractor

Belia Ramos

Printed Name of Person Signing for  
Contractor

230303B

Contract / Grant Number

*Michelle Grupp*

Signature of Person Signing for  
Contractor

2/27/23

Date

Chair, Board of Supervisors

Title

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services  
Local Governmental Financing Division  
County-Based Medi-Cal Administrative Activities  
Unit  
1501 Capitol Avenue  
P.O. Box 997436, MS 2628  
Sacramento, CA 95899-7436

DHCS reserves the right to notify the contractor in writing of an alternate submission address.

## Attachment 2

## CERTIFICATION REGARDING LOBBYING

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 0348-0046

(See reverse for public burden disclosure)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____  date of last report _____.
4. Name and Address of Reporting Entity:  <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier ____, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:	
6. Federal Department/Agency	7. Federal Program Name/Description:  CDFA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known:  \$	
10.a. Name and Address of Lobbying Registrant <i>(If individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from 10a. (Last name, First name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31	Signature:	
	Print Name:	
	Title:	

<p>U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than \$100,000 for each such failure.</p>	<p>Telephone No.: _____ Date: _____</p>
<p><b>Federal Use Only</b></p>	<p>Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)</p>

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection *of information*. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.



## EXHIBIT E

### CONTRACTOR'S PRIVACY AND SECURITY COMMITMENTS

This Exhibit shall constitute the "Agreement" between **COPE FAMILY CENTER**, ("CONTRACTOR") and Napa County, and applies to the functions Contractor will perform on behalf of Napa County (collectively, "Services"), that are identified in the Master Agreement.

1. **Purpose.** This Agreement is intended to ensure that CONTRACTOR will establish and implement appropriate privacy and security safeguards with respect to Napa County Confidential Information. Napa County Confidential Information includes:

- Personally Identifiable Information: such as name, date of birth, address, phone number, Social Security Number, California Identification Number, Driver's License Number, email address, ip address, and any other data that could reasonably identify an individual; pertaining to clients or employees of Napa County; and
- Medical Information: any individually identifiable information, in electronic or physical form, pertaining to the past, present or future medical condition of clients or employees of Napa County

2. **Permitted Uses and Disclosures.**

(a) Except as otherwise limited in this Agreement, CONTRACTOR may use or disclose Napa County Confidential Information to perform functions, activities, or services for, or on behalf of Napa County for the purposes specified in Attachment A to this Exhibit, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate California Civil Code Sections 56-56.37, collectively known as the Confidentiality of Medical Information Act (CMIA), and/or any other relevant state and federal privacy laws and regulations. CONTRACTOR must also make reasonable efforts to limit the use and disclosure of Napa County Confidential Information to the Minimum Necessary to accomplish the intended purpose of the use, disclosure, or request.

(b) Except as otherwise limited in this Agreement, CONTRACTOR may use Napa County Confidential Information for the proper management and administration of the CONTRACTOR, or to carry out the legal responsibilities of CONTRACTOR.

(c) Except as otherwise limited in this Agreement, CONTRACTOR may disclose Napa County Confidential Information for the proper management and administration of the CONTRACTOR provided that disclosures are required by law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) CONTRACTOR may use Napa County Confidential Information to report violations of law to appropriate Federal and State authorities.

(e) CONTRACTOR may not use or disclose Napa County Confidential Information in a manner that would violate CMIA (or other relevant state and federal privacy laws and regulations) if done by Napa County, except for the specific uses and disclosures set forth herein.

3. **Appropriate Safeguards.**

(a) CONTRACTOR agrees to use appropriate safeguards to prevent the use or disclosure of Napa County Confidential Information other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Napa County Confidential Information that is created, received, maintained or transmitted on behalf of Napa County and limit its use and disclosure to the minimum necessary.

(b) Safeguarding Electronic Napa County Confidential Information. CONTRACTOR must secure all Electronic Napa County Confidential Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with the National Institute of Standards Technology (NIST) Standards and Federal Information Processing Standards (FIPS) as applicable. Should CONTRACTOR fail to comply with this provision, it agrees to hold harmless, defend at its own expense and indemnify Napa County in accordance with the terms of Section 6 of the Agreement, "Indemnification".

(c) Destruction of Napa County Confidential Information on paper, film, or other hard copy media must involve either shredding or otherwise destroying it so that it cannot be read or reconstructed.

(d) Should any employee or subcontractor of CONTRACTOR have direct, authorized access to computer systems of Napa County that contain Napa County Confidential Information, CONTRACTOR shall immediately notify Napa County of any change of such personnel (e.g. employee or subcontractor termination, or change in assignment where such access is no longer necessary) in order for Napa County to disable the previously authorized access.

4. **Reporting Unauthorized Uses and Disclosures.**

(a) CONTRACTOR agrees to notify Napa County of any access, use or disclosure of Napa County Confidential Information not permitted or provided for by the Agreement of which it becomes aware. Such notification will be made immediately after discovery by telephone call at 707.253.4523, plus e-mail at [Privacy.Officer@countyofnapa.org](mailto:Privacy.Officer@countyofnapa.org), and will include, to the extent possible, the identification of each Individual whose Napa County Confidential Information has been, or is reasonably believed by the CONTRACTOR to have been, accessed, acquired, used or disclosed, a description of the Napa County Confidential Information involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by CONTRACTOR.

(b) A breach or unauthorized access, use, or disclosure shall be treated as discovered by CONTRACTOR on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the CONTRACTOR or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of CONTRACTOR.

(c) In meeting its obligations under this section, it is understood that CONTRACTOR is not acting as the Napa County's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Agreement, it is understood and agreed that CONTRACTOR is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.

**5. Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Napa County Confidential Information**

(a) CONTRACTOR agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Napa County Confidential Information by CONTRACTOR or its employees, officers, subcontractors, agents, or other representatives.

(b) Following a breach, security incident, or any unauthorized access, use or disclosure of Napa County Confidential Information, CONTRACTOR agrees to take any and all corrective action(s) necessary to prevent recurrence, to document any such action(s), and to make this documentation available to Napa County.

(c) Except as required by law, CONTRACTOR agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Napa County Confidential Information without obtaining Napa County's prior written consent. Napa County hereby reserves the sole right to determine whether and how such notice is to be provided to any Individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice. When applicable law requires the breach be reported to a federal or state agency or that notice be given to media outlets, CONTRACTOR shall cooperate with and coordinate with Napa County to ensure such reporting is in compliance with applicable law and to prevent duplicate reporting, and to determine responsibilities for reporting.

**6. Indemnification.**

To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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.

**7. Individuals' Rights.**

(a) CONTRACTOR agrees to provide access, at the request of Napa County, and in the time and manner designated by the Napa County, to Napa County Confidential Information to Napa County or, as directed by Napa County, to an Individual.

**8. Agents and Subcontractors of CONTRACTOR.**

(a) CONTRACTOR agrees to enter into written agreements with any agent, subcontractor or vendor, to whom it provides Napa County Confidential Information received from Napa County or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa

County, that impose the same restrictions, conditions and requirements that apply through this Agreement to CONTRACTOR with respect to such information, including the requirement to immediately notify the CONTRACTOR of any instances of any breach, security incident, intrusion, or unauthorized access to or use or disclosure of Napa County Confidential Information of which it becomes aware. Upon request, CONTRACTOR shall provide copies of such agreements to Napa County.

(b) CONTRACTOR shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

**9. Audit, Inspection, and Enforcement.**

(a) CONTRACTOR agrees to make internal practices, books, and records relating to the use and disclosure of Napa County Confidential Information received from Napa County or created, received, maintained, or transmitted by CONTRACTOR on behalf of Napa County, available to any state or federal agency, for the purposes of determining compliance with applicable state and federal privacy laws and regulations.

(b) With reasonable notice, Napa County and its authorized agents or contractors may audit and/or examine CONTRACTOR's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Napa County Confidential Information to determine compliance with the terms of this Agreement. CONTRACTOR shall promptly correct any violation of this Agreement found by Napa County and shall certify in writing that the correction has been made. CONTRACTOR's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Napa County's enforcement rights under this Agreement.

**10. Permissible Requests by Napa County.** Napa County shall not request that CONTRACTOR use or disclose Protected Napa County Confidential Information in any manner that would not be permissible under the relevant state and federal privacy laws and regulations if done by Napa County.

**11. Term and Termination.**

(a) The terms of this Agreement shall remain in effect for the duration of all services provided by CONTRACTOR under the Master Agreement and for so long as CONTRACTOR remains in possession of any Napa County Confidential Information received from Napa County, or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa County unless Napa County has agreed in accordance with this Section 11 that it is not feasible to return or destroy all Napa County Confidential Protected Information.

(b) Upon termination of the Master Agreement, CONTRACTOR shall recover any Napa County Confidential Information relating to the Master Agreement and this Agreement in its possession and in the possession of its subcontractors, agents or representatives. CONTRACTOR shall return to Napa County, or destroy with the consent of Napa County, all such Napa County Confidential Information, in any form, in its possession and shall retain no copies.

(c) If CONTRACTOR believes it is not feasible to return or destroy the Napa County Confidential Information, CONTRACTOR shall so notify Napa County in writing. The notification shall include: (1) a statement that the CONTRACTOR has determined that it is not

feasible to return or destroy the Napa County Confidential Information in its possession, and (2) the specific reasons for such determination. CONTRACTOR may retain only that Napa County Confidential Information which is necessary for CONTRACTOR to continue its proper management and administration or to carry out its legal responsibilities. If Napa County agrees in its sole discretion that CONTRACTOR cannot feasibly return or destroy the Napa County Confidential Information, CONTRACTOR shall ensure that any and all protections, requirements and restrictions contained in the Master Agreement and this Agreement shall be extended to any Napa County Confidential Information for so long as CONTRACTOR maintains such Napa County Confidential Information, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the Napa County Confidential Information infeasible.

(d) Napa County may immediately terminate the Master Agreement if it determines that CONTRACTOR has violated a material term of this Agreement.

(e) Survival. The obligations of CONTRACTOR under this Section 11 shall survive this Agreement.

12. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Napa County and CONTRACTOR to comply with the requirements of relevant state and federal privacy laws and regulations

13. **Notices.**

(a) 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 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.

(b) Any mailed notice, demand, request, consent, approval or communication that Napa County desires to give to CONTRACTOR shall be addressed to CONTRACTOR at the mailing address set forth in the Master Agreement.

(c) Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to Napa County shall be addressed to Napa County at the following address:

Napa County Privacy Officer  
2751 Napa Valley Corporate Drive  
Napa, CA 94558  
707.253.4715

(d) For purposes of subparagraphs (b) and (c) above, either party may change its address by notifying the other party of the change of address.

14. **Lost Revenues; Penalties/Fines.**

(a) Penalties/Fines for Failure to Comply with relevant privacy laws and regulations. CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with the obligations imposed by relevant state and federal privacy laws and regulations.

(b) Penalties/Fines (other). CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines, which may be assessed under a Federal or State False Claims Act provision.

**NAPA COUNTY AGREEMENT NO. 230302B**  
**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT (the “Agreement”)** is made and entered into as of the 1<sup>st</sup> day of July 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and **SPIRIT OF UNITY IN NAPA dba PUERTAS ABIERTAS COMMUNITY RESOURCE CENTER**, a California nonprofit corporation, whose mailing address is 952 Napa Street, Napa, CA 94559, hereinafter referred to as “CONTRACTOR.” COUNTY and CONTRACTOR may be referred to below collectively as “Parties” and individually as “Party.”

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services in order for CONTRACTOR to provide assistance with outreach, enrollment, retention, and utilization of Medi-Cal for all potentially eligible children/families throughout Napa County; and CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein.

**TERMS**

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the Terms and Conditions and their own Exhibits, which together are attached hereto and incorporated by this reference as though set forth in full herein. The Section numbers of any portion of this Agreement may at times be referred to either as “Sections” or “Paragraphs” interchangeably.

**[SIGNATURE PAGE TO FOLLOW]**



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

<b>NAPA COUNTY</b> , a political subdivision of the State of California	<b>CONTRACTOR</b>	
By _____ <b>BELIA RAMOS, Chair of the Board of Supervisors</b>  ATTEST: NEHA HOSKINS, Clerk of the Board  By: _____ DATE APPROVED BY THE BOARD: _____  Processed by: _____ Deputy	 BLANCA HUIJON, Executive Director	
Maximum Amount of this Agreement: \$24,857 Term Expires: June 30, 2023 Automatic renewal of term does not apply.	APPROVED AS TO FORM BY NAPA COUNTY COUNSEL  By: <i>Corey S. Utsurogi</i> Date: 2/24/23	

## **TERMS AND CONDITIONS OF NAPA COUNTY AGREEMENT NO. 230302B**

### **SECTION 1. Contract Administration**

For purposes of this Agreement, the following shall apply:

- 1.1 “Department” shall mean: Health and Human Services Agency
- 1.2 “Director” shall mean the person elected or appointed to the chief management position of the Department.
- 1.3 “Contract Administrator” shall be: Contracts Analyst or such other person as designated by the Department Director. The address for COUNTY’s Contract Administrator shall be: 2751 Napa Valley Corporate Drive, Building B, 2<sup>nd</sup> Floor, Napa, CA 94559.
- 1.4 The Program Manager for COUNTY shall be: Christine Wu, M.D., Public Health Officer
- 1.5 The Contract Contact Person for CONTRACTOR shall be: Blanca Huijon, 952 Napa Street, Napa, CA 94559
- 1.6 CONTRACTOR is a ☐ sole proprietor ☐ partnership ☒ corporation ☐ public agency ☐ other (specify) .
- 1.7 The source of funding for this Agreement shall be: Health and Human Services General Fund
- 1.8 In entering into this Agreement, CONTRACTOR acknowledges and agrees to abide by the applicable terms of the following COUNTY-entity agreements, and as they may amended from time to time: Department of Health Care Services- Napa County Agreement No. 230296B

These agreements are on file with the Napa County Clerk of the Board of Supervisors and may be accessed at <https://www.countyofnapa.org/DocumentCenter/> under “Departments/Health and Human Services/Administration/Contracts and Administration Documents” (See also Section 2, Paragraphs 2.15(b)(2) and 2.35)

### **SECTION 2. General Terms and Conditions.**

Attached hereto and incorporated by this reference as Exhibit C is “SECTION 2. General Terms and Conditions – Version 12”, which shall be referred to herein as the “General Terms and Conditions” and which shall apply to this Agreement unless otherwise specifically limited or excluded by more specific provisions.

Due to changes in the laws, future versions of General Terms and Conditions shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR, effective within such time period as is designated in Paragraph 2.10 (Other Termination) plus 15 days or as mandated by local, state or federal laws or regulations, whichever date is sooner.

### **SECTION 3. Specific Terms and Conditions.**

The following Specific Terms and Conditions provide additional terms and conditions or modify the General Terms and Conditions of this Agreement. A Specific Term and Condition shall

control if a conflict exists with a General Term and Condition.

3.1 The following Specific Terms and Conditions apply when CONTRACTOR's obligations under this Agreement involve the following as designated by an "X":

☒ (a) Contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (General Terms and Conditions Paragraph 2.8(b) applies).

☐ (b) Construction or pre-construction related services (General Terms and Conditions Paragraph 2.19(e) applies).

☐ (c) Work on or the supplying of any software systems or equipment containing or suspected of containing clocks or embedded chips functioning as or dependent upon the use of clocks or calendars (General Terms and Conditions Paragraph 2.29 applies).

☒ (d) Services covered by a Federal Health Care Program (General Terms and Conditions Paragraph 2.31 applies).

☐ (e) Services covered by a State Medi-Cal Specialty Mental Health Program (General Terms and Conditions Paragraph 2.32 applies).

☐ (f) Mental Health Activities (General Terms and Conditions Paragraph 2.33 applies).

☒ (g) Services involving the receipt, use or disclosure of protected health information: A determination has been made by COUNTY's Privacy Officer that CONTRACTOR shall not provide services under this Agreement as a Business Associate to COUNTY. General Terms and Conditions Paragraph 2.34(b) does not apply to this Agreement.

☐ (h) Services provided under COUNTY's Managed Care Provider Program, which shall be subject to all the terms and conditions set forth in the Napa County Mental Health Managed Care Provider Manual, herein incorporated by reference and on file with the Clerk of the Napa County Board of Supervisors.

☐ (i) Services as a provider for which CONTRACTOR has submitted a "Provider Application," which CONTRACTOR warrants that the information contained in said application is accurate and understands that any inaccuracies may be grounds for termination of this Agreement by COUNTY. CONTRACTOR authorizes COUNTY to consult with third parties, including but not limited, to the National Practitioner Data Bank or other applicable licensing boards.

☐ (j) Services involving the use or disclosure of personally identifiable information that are performed as a subcontractor under COUNTY's contract with another entity when that contract requires COUNTY to include its applicable terms in COUNTY's subcontracts. (General Terms and Conditions Paragraph 2.35 applies.)

☐ (k) Services determined by the Department Director to be covered by Department's Code of Ethics. (General Terms and Conditions Paragraph 2.38 applies.) CONTRACTOR understands that, by entering into this Agreement, CONTRACTOR acknowledges that CONTRACTOR has received, read, and understands the Code of Ethics, and agrees to abide by the terms therein as applicable to CONTRACTOR's activities under this Agreement. Department shall provide CONTRACTOR with copies of Department's Code of Ethics prior to the execution of the Agreement. CONTRACTOR further understands that on an annual basis

CONTRACTOR shall provide written certification to Department that CONTRACTOR has received, read, understands, and will abide by Department's Code of Ethics.

[X] (l) Services have been determined by the Department Director, or may be determined at a later date, that CONTRACTOR is a subrecipient or pass-through entity and is therefore required to meet all of the requirements found in 2 C.F.R. § 200.331. (General Terms and Conditions 2.40 applies.) COUNTY shall notify CONTRACTOR in accordance with General Terms and Conditions Paragraph 2.13 (Notices), of any change in designation as a subrecipient, and any subsequent increase to the amount of Federal funding CONTRACTOR shall receive under the terms of this Agreement. CONTRACTOR shall be bound thereby upon receipt of notice.

### 3.2 Source Funding.

(a) Change in Source Funding. Paragraph 1.7 may be unilaterally modified by COUNTY upon written notice to CONTRACTOR who shall be bound thereby immediately upon receipt. The Department Director is delegated the authority to modify Paragraph 1.7 and provide such written notice, but may exercise such authority only after consultation with, and concurrence of, the Napa County Counsel and the Napa County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Napa County Board of Supervisors to modify Paragraph 1.7.

(b) Amendment to Source Funding Agreement. If Paragraph 1.7 identifies a funding source agreement, then any amendment to the funding source agreement shall be automatically incorporated and made a part of this Agreement, effective in accordance with the amended funding source agreement. As a subcontractor of COUNTY, CONTRACTOR shall be bound by the applicable terms of the funding source agreement, and any amendments thereto.

3.3 Statement of Economic Interests. By authorizing its Chair to execute this Agreement on its behalf, COUNTY's Board of Supervisors hereby determines in writing on behalf of COUNTY that CONTRACTOR has been hired to perform a range of duties so limited in scope as to not be required to comply with the disclosure obligations set forth in Paragraph 2.23(b).

3.4 COUNTY delegates its authority to the Director of the Health and Human Services Agency to approve future amendments to Exhibits A and B, attached to this Agreement, provided that any such amendment does not materially alter the nature of the services to be provided or increase the maximum compensation available under this Agreement.

3.5 Term of Agreement. Section 2.1 (b) of the General Terms and Conditions does not apply to this Agreement. The term of this Agreement shall commence on the date written on page 1 and shall expire of **June 30, 2023**, unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Termination for Convenience) or 2.23 (a) (Covenant of No Undisclosed Conflict). The obligations of the Parties under Paragraphs 2.7 (Insurance) and 2.8 (Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes) and 2.21 (Access to Records/Retention).

#### **SECTION 4. Incorporated Documents.**

The following documents are incorporated herein by this reference and attached hereto and labeled as the following Exhibit letters:

Exhibit A: Scope of Work

Exhibit B: Compensation and Financial Reporting

Exhibit C: "Section 2, General Terms and Conditions, Version 12"

Exhibit D(F): Department of Health Care Services "Special Terms and Conditions"

Exhibit E: Contractor's Privacy and Security Commitments

**EXHIBIT A**  
**SCOPE OF WORK**

**MEDI-CAL ADMINISTRATIVE ACTIVITIES**

Medi-Cal Administrative Activities, or MAA, are activities performed that are necessary for the proper and efficient administration of the Medi-Cal State Plan. The Local Government Agency (LGA), or the designated entity responsible for administering MAA locally, is Napa County Health and Human Services Agency (HHSA). The LGA may subcontract with community-based organizations to perform MAA.

In FY 13-14 Napa County HHSA launched a community-wide effort to outreach and enroll uninsured and potentially eligible residents in Medi-Cal coverage and to link them to needed health/behavioral health services. The essential component of this effort is subcontracting with qualified and interested CBOs to link Medi-Cal eligible and potentially eligible individuals with Medi-Cal covered services as well as assist in the Medi-Cal application process. Currently, many CBOs are the first place low-income individuals and families go for services including: Medi-Cal and Medi-Cal covered service information, referral and facilitation of the Medi-Cal application. Napa County HHSA recognizes the unique relationship that CBOs have with the Medi-Cal eligible population and wishes to maximize this relationship in assuring the availability and accessibility of Medi-Cal services.

Eligibility for Medi-Cal was expanded under the Affordable Care Act and more residents are eligible for Medi-Cal. This project intends to have a positive, proactive impact in reaching the uninsured by leveraging the effectiveness that CBOs have in linking people to the appropriate services within the county. The project also intends to ensure there is a greater chance that anyone who needs health/behavioral health care successfully connects and engages in those services.

As a participant in this project, CONTRACTOR is expected to carry out the duties specified below to ensure to the greatest extent practicable that: Uninsured Napa residents who are eligible for Medi-Cal coverage receive it and access the care they need.

**Type of MAA Activities to be performed:**

- 1) **Allowable Medi-Cal Outreach**: This activity may consist of discrete campaigns or may be an ongoing activity. This activity is directed to groups or individuals targeted to two goals:
  - Bringing potentially eligible people into the Medi-Cal system for the purpose of determining Medi-Cal eligibility; and
  - Bringing Medi-Cal eligible people into Medi-Cal services.

Outreach may consist of discrete campaigns or may be an ongoing activity, such as: sending teams of employees into the community to contact homeless alcoholics or drug abusers; establishing a telephone or walk-in service for referring persons to Medi-Cal services or eligibility offices; operating a drop-in community center for underserved populations, such as minority teenagers where Medi-Cal eligibility and service information is disseminated.

The following activities describe how outreach shall be performed:

- a. Outreach campaigns directed to the entire population to encourage potential Medi-Cal eligibles to apply for Medi-Cal, These campaigns are Medi-Cal only eligibility outreach campaigns.
- b. Outreach campaigns directed toward bringing Medi-Cal eligibles into Medi-Cal covered services. In such campaigns, the language should clearly indicate that the message is directed to only persons eligible for Medi-Cal, and not the general public. These campaigns are service campaigns, targeted to specific Medi-Cal services, such as Early and Periodic Screening, Diagnosis and Treatment (EPSDT).
- c. Informing children and their families on how to effectively access, use and maintain participation in all health resources under the Medi-Cal program.
- d. Informing individuals or the general public about the benefits and services that the Medi-Cal program offers and encouraging and referring them to apply for Medi-Cal benefits.
- e. Providing initial referral assistance to families and individuals to Medi-Cal services.

Note: A health education program or campaign may be allowable as a Medi-Cal administrative cost if it is targeted specifically to Medi-Cal services and for Medi-Cal eligible individuals, such as an educational campaign on immunization addressed to parents of Medi-Cal children.

### **Performance Targets**

CONTRACTOR shall participate in at least 24 outreach events.

CONTRACTOR shall outreach to at least 600 individuals, providing information about Medi-Cal coverage and Medi-Cal covered services.

CONTRACTOR shall refer and successfully link at least 20 individuals to Medi-Cal coverage and/or Medi-Cal covered services.



## **Quarterly Reporting**

CONTRACTOR shall provide quarterly reports as indicated in the schedule included in Exhibit B, "COMPENSATION." Reports will include documentation to support the number and type of outreach events (e.g. flyers, brochures, dates and announcements of events) and the number of individuals and/or families reached through ongoing outreach efforts. The reports will also include documentation to support the number of individuals and/or families assisted with application or re-determination for Medi-Cal (e.g. client count of applications ) and the number of Medi-Cal beneficiaries linked to Medi-Cal services (e.g. client count). Finally, the reports will include certification that costs incurred were directly related to the provision of MAA allowable activities.

## **Compliance with MAA Requirements**

CONTRACTOR shall comply with MAA requirements such as completing mandated covered contractor provisions and providing documentation that the organization is meeting requirements of the MAA claiming plan for which they are included, such as, submitting to HHSA the job descriptions for the staff performing MAA activities.

CONTRACTOR understands that the MAA activities and expenditures performed by CONTRACTOR are subject to the requirements set forth in the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link: [https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf) CONTRACTOR shall comply with the requirements of the DHCS MAA Operational Plan.

CONTRACTOR understands that the information presented to COUNTY by CONTRACTOR under this Agreement shall be used for filing a claim with the Federal Government for federal funds, and that any knowing misrepresentation constitutes a violation of the Federal False Claims Act.

**EXHIBIT B**  
**COMPENSATION**

**MEDI-CAL ADMINISTRATIVE ACTIVITIES**

COUNTY shall reimburse CONTRACTOR for Medi-Cal Administrative Activities (MAA) described in Exhibit A as follows:

**1. Amount**

- CONTRACTOR shall be reimbursed up to a maximum of \$24,857 for Medi-Cal Outreach as described in Exhibit A for the term of the Agreement. Funding to the CONTRACTOR shall be contingent upon availability of funds for source of certified public expenditure.
- CONTRACTOR shall be able to verify that expenditures related to its provision of MAA activities represent accurately identifiable and eligible costs, and that CONTRACTOR has excluded any non-claimable non-salary costs in compliance with the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link:  
[https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf)

**2. Certified Public Expenditure**

This Agreement is funded by County General funds. CONTRACTOR may not use the funds to claim reimbursement for any other Federal program.

**3. Method of Payment**

CONTRACTOR must submit an invoice or claim form to the County Fiscal Analyst, not to exceed the contract maximum. Actual annual reimbursement shall be based on CONTRACTOR's actual cost, not to exceed the annual maximum operating budget amount in each Fiscal Year. The quarterly reports and invoices due, as noted below, shall identify the activities conducted and expenditures made during the previous quarter ending on the last date of the calendar month prior to the report due date. Payment will be made following receipt of the report and invoice. COUNTY shall not release payments until CONTRACTOR has submitted reports for the previous quarter.

<b>CONTRACT PERIOD</b>	<b>REPORT/INVOICE DUE DATE</b>
July 1, 2022 – September 30, 2022	Upon contract execution
October 1, 2022 – December 31, 2022	January 31, 2023
January 1, 2023 – March 31, 2023	April 30, 2023
April 1, 2023 – June 30, 2023	July 15, 2023

CONTRACTOR shall, on each quarterly invoice, certify that the expenditures incurred represent accurate identifiable and eligible costs, and that CONTRACTOR's expenditures were made on eligible MAA claimable activities, as set forth in Exhibit A of this Agreement. CONTRACTOR's expenditures incurred for each of the two MAA activities shall be separately identified. CONTRACTOR shall provide certification in a manner, and on an invoice, provided by COUNTY.

#### **4. Contract Monitoring**

COUNTY will meet with CONTRACTOR during the initial months/quarters of this agreement to review documentation that supports MAA invoicing and to provide technical assistance as needed. CONTRACTOR shall meet at least once a year with COUNTY thereafter to coordinate and review fulfillments of contract terms, and address any potential impediments to the fulfillment of the terms of this agreement. Such review shall extend to an examination of type and quantity of services provided, interagency coordination, and any other issues pertinent to this agreement.

- CONTRACTOR is responsible for maintaining all documentation required for monitoring.
- CONTRACTOR shall request technical assistance from the COUNTY regarding elements of the contract with which they need assistance. COUNTY shall consider any such request and shall provide technical assistance to the CONTRACTOR if the COUNTY has the capacity and capability to do so. CONTRACTOR maintains responsibility for ensuring that its services and activities are in compliance with applicable regulations.
- COUNTY normally shall provide 30-day notice of the site visit to the CONTRACTOR and shall specify the documentation that will need to be available at the time of the visit.
- Under normal circumstances, the visit may require the review of the following documents: records that delineate the MAA activities from other activities, support full expenditure of funding and that expenditures were directly related to MAA activities, demonstrate covered contractor screening provisions have been met, and any other documentation the COUNTY may request to be reviewed to ensure CONTRACTOR meeting state and federal requirements delegated through the contract.
- COUNTY shall provide CONTRACTOR with the opportunity to respond to the COUNTY'S written report of the site visit prior to the report becoming final.

- If the final report identifies material variations between the CONTRACTOR'S activities and the requirements of the contract, the COUNTY may require the CONTRACTOR to prepare a written plan of action to address those variations.

**5. Program Name and Number for Federal Claiming**

Title 31- Money and Finance, Subtitle V – General Assistance Administration, Chapter 75 - Requirements for Single Audits, Section 7502 requires each pass-through entity provide the sub recipient program names and any identifying numbers from which such assistance is derived. The Catalog of Federal Domestic Assistance (CFDA) number for this federal program is 93.778, Medical Assistance Program.

**6. Disallowed Costs**

COUNTY shall withhold any payments for services for which documentation of activities and expenditures is not sufficient to claim the Federal Financial share of MAA.

CONTRACTOR shall reimburse COUNTY for all overpayments identified by CONTRACTOR, COUNTY and/or State or Federal oversight agencies as an audit exception. CONTRACTOR shall make any repayment based on audit exception(s) upon discovery of said exception(s). If reimbursement is required, CONTRACTOR shall reimburse COUNTY within 60 days of identification.

## **EXHIBIT C**

### **SECTION 2. GENERAL TERMS AND CONDITIONS --VERSION 12**

#### **2.1 Term of the Agreement.**

(a) Term. The term of this Agreement shall commence on the date first written on page 1 and shall expire on the expiration date set forth on page 1 unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Other Termination) or 2.23(a) (Covenant of No Undisclosed Conflict).

(b) Automatic Renewal. The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the same terms and conditions, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30. COUNTY authorizes the Department Director to determine whether this Agreement shall not be renewed and to provide the written notice of the intention to not renew on behalf of COUNTY.

(c) Obligations Extending Beyond Term. The obligations of the parties under Paragraphs 2.7 (Insurance) and 2.8 (Hold Harmless/Defense/Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes), 2.21 (Access to Records/Retention), 2.31 (Compliance with Federal Health Care Program Requirements), 2.32 (Compliance with State Medi-Cal Specialty Mental Health Services Requirements), and 2.33 (Compliance with Mental Health Activities Requirements). To the extent the paragraphs referenced in this Paragraph 2.1 may be modified by Specific Terms and Conditions contained in SECTION 3 of this Agreement, the modifications shall also continue after the expiration date or early termination.

**2.2 Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A."

#### **2.3 Compensation.**

(a) Compensation/Maximum. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates and/or in the amount(s) set forth in Exhibit "B". The maximum payment for the initial term of this Agreement, and the successive maximum payments for each subsequent automatically renewed term, shall each be that maximum amount set forth on page 1; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

(b) Advance Funding.

1. Use of Funds. To the extent this Agreement may permit advance funding of services and expenses, use of funds delineated in this Agreement is limited to the term of performance unless otherwise modified in accordance with Paragraph 2.17

(Amendment/Modification). COUNTY may at its discretion recapture funds obligated under the authority of this Agreement if expenditure plans are not being met.

2. Reversion of Funds. If funds awarded to CONTRACTOR have not been expended in accordance with this Agreement and COUNTY has determined after consultation with CONTRACTOR that funds will not be spent in a timely manner, such funds will revert to COUNTY for that reason and to the extent permitted by and in a manner consistent with federal and state law, regulations, and policies.

(c) Availability of Funds. It is mutually understood that, for the benefit of both parties, this Agreement may have been written before ascertaining the availability of congressional and/or state legislative appropriation of funds in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made. If funding of this Agreement is dependent upon the availability of congressional and legislative appropriation of funds, then:

1. This Agreement shall be deemed automatically terminated if the Congress and and/or the State Legislature do not appropriate funds needed for this Agreement;

2. At COUNTY's discretion, this Agreement may be deemed automatically terminated or this Agreement may be modified or amended in accordance with Paragraph 2.17 (Amendment/Modifications), if the Congress and/or State Legislature do not appropriate sufficient funds needed for this Agreement; and

3. This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or State Legislature, or any statute enacted by the Congress or State Legislature, that may in any manner affect the provisions, terms, or funding of this Agreement.

(d) COUNTY may withhold any compensation due CONTRACTOR as an offset for any revenues lost arising from an act or omission in billing or documentation practices by CONTRACTOR. CONTRACTOR shall make COUNTY whole for any such lost revenues.

## **2.4 Method of Payment.**

(a) Invoices. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR'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 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. Where expense reimbursement is sought, the invoice shall describe the nature and cost of the expense, the task(s) if any to which the expense was related, and the date incurred. CONTRACTOR shall submit invoices not more often than monthly to the Contract Administrator. After review and approval as to form and content, the invoice shall be submitted to the Napa County Auditor no later than fifteen (15) calendar days following receipt.

(b) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Contract Administrator upon request during the term of this Agreement in a form 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 CONTRACTOR within the State of California.

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

**2.6 Specific Performance.** It is agreed that CONTRACTOR, including the agents, employees and authorized subcontractors of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

**2.7. Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability Insurance. CONTRACTOR 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:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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 CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. 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 of Coverage. All insurance coverages referenced in 2.7(b), 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 CONTRACTOR with the Health and Human Services Agency prior to commencement of performance of any of CONTRACTOR's duties.

(1) 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, other termination, or material change, 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 2.7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 2.7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR 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 CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR 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 2.7.

(f) Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve CONTRACTOR, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

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

(a) In General. To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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) Obligations Relating to Criminal Background Checks.

1. If CONTRACTOR's obligations under this Agreement involve contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (hereafter in this paragraph referred to as "third persons"), then CONTRACTOR shall investigate by all lawful means, including but not limited to obtaining information from official government sources as the result of taking fingerprints, the criminal background of each and all of its officers, agents, employees, interns, and volunteers, however denominated (hereafter, "employees"), who

will have direct personal contact with, or provide direct personal services to, third persons in the performance of this contract. Depending upon the information acquired by its investigation, CONTRACTOR shall not allow any of its employees to have personal contact with, or provide direct personal services to, third persons where it may reasonably be concluded as a result of its investigation that an employee should not have such contact or provide such service. Nothing herein requires CONTRACTOR to investigate the criminal background of an employee who is currently licensed by the State of California and whose license requires a criminal background investigation.

2. Notwithstanding anything to the contrary in (a) or (c), CONTRACTOR shall defend and indemnify COUNTY and its officers, agents and employees from any and all claims, actions, settlements or judgments of whatever kind which may arise from the failure of CONTRACTOR to conduct the criminal background investigation described in this subparagraph (b) or from the failure of CONTRACTOR after the investigation to reasonably disallow an employee from having such personal contact or providing such direct personal service.

(c) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

## **2.9 Termination for Cause.**

(a) 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 written notice to the defaulting party in the manner set forth in Paragraph 2.13 (Notices).

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

## **2.10 Other Termination.**

(a) This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party 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 COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination.

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

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

(a) Upon expiration or termination of this Agreement, if and to the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(b) 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 COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR 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 CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof.

(c) Notwithstanding the provisions set forth in subparagraph (b ) above, if the services involve development or improvement of previously patented inventions or previously copyrighted software, upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(d) CONTRACTOR 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 notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR

whether or not the Agreement expired or was otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

**2.12 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.

**2.13 Notices.**

(a) In General. Except as set forth in subparagraph (b) below with respect to notice of automatically adopted provisions, 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 notice sent by mail in the manner prescribed by this subparagraph 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. Any mailed notice, demand, request, consent, approval or communication that COUNTY desires to give to CONTRACTOR shall be addressed to CONTRACTOR's Contract Contact Person at the mailing address set forth in SECTION 1 of this Agreement. Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to COUNTY shall be addressed to COUNTY's Contract Administrator at the mailing address set forth in SECTION 1 of this Agreement. Either party may change its address by notifying the other party of the change of address.

(b) Provisions Adopted Automatically. COUNTY reserves the right to provide notice to CONTRACTOR via facsimile of terms, which automatically become part of this Agreement upon approval by the Napa County Board of Supervisors. Notice delivered by facsimile shall be deemed to have been received on the date a successful delivery confirmation report is generated.

(c) Waiver of Notice by CONTRACTOR. If receipt of notice is refused by CONTRACTOR or if notice is undeliverable due to CONTRACTOR's failure to provide a change of address, notice shall be deemed waived and COUNTY may proceed as though notice were accomplished.

**2.14 Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. Future versions of the following policies shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR pursuant to Paragraph 2.13. CONTRACTOR 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 COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment."

(c) Drug and Alcohol Policy.

(d) Napa County Information Technology Use and Security Policy. To this end, all

employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

## 2.15 Confidentiality.

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to or created by CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive or create, if any, in trust and confidence, except with the prior written approval of COUNTY, as expressed through the Department Director. Upon cancellation or expiration of this Agreement, to the extent permitted by law, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR agrees to adhere to the applicable terms regarding the privacy and security of Protected Information as set forth in the COUNTY-entity agreements identified in Paragraph 1.8 of Section 1 of this Agreement (Contract Administration). CONTRACTOR shall also observe and comply with those requirements set forth in "Addendum For Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(3) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 2.15.

(4) CONTRACTOR agrees to notify COUNTY, by and through the Napa County Privacy Officer at 2751 Napa Valley Corporate Dr. Suite B, Napa, CA 94559, or 707.253-4715, immediately in the following instances:

(A) Upon the discovery of a breach of PHI/PII/other Protected Information in electronic or other media;

(B) Upon the discovery that PHI/PII/other Protected Information was, or is reasonably believed to have been accessed or acquired by an unauthorized person;

(C) Upon the discovery of a suspected security incident that involves PHI/PII/other Protected Information; or

(D) Upon the discovery of any breach, security incident, intrusion, or unauthorized access, use, or disclosure of PHI/PII/other Protected Information.

(5) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of PHI/PII/other Protected Information, or its unauthorized access to or disclosure of PHI/PII/or other Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

(c) To the extent CONTRACTOR creates, is provided, or has access to applications and records concerning any individual made or kept by COUNTY in connection with public social services (records) as defined in California Welfare & Institutions Code Section 10850, CONTRACTOR shall maintain the confidentiality of such records in accordance with Section 10850, except as otherwise permitted by COUNTY and as necessary for purposes of providing services under this Agreement.

(d) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY's data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COUNTY data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COUNTY data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COUNTY for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COUNTY must bear.

(e) HHS Contractor Security Requirements. Whenever CONTRACTOR utilizes their own equipment to perform work under this Agreement, CONTRACTOR warrants that they have reviewed "HHS Contractor Security Requirements" and can adhere to the minimum standards at all time. A copy of "HHS Contractor Security Requirements" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).



## **2.16 No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

## **2.17 Amendment/Modification.**

(a) Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only COUNTY, by the Department Director (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed \$10,000), or by COUNTY's Purchasing Agent (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed the maximum aggregate amount for Purchasing Agent contracts as specified by Napa County Code section 2.36.040 (G)) or by COUNTY's Board of Supervisors (in all other instances), in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by "Exhibit A." Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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.

(b) Notwithstanding anything to the contrary in (a), this Agreement may be unilaterally modified by COUNTY upon written notice to CONTRACTOR under the following circumstances:

1. There is a decrease in state or federal funding needed for this Agreement;
2. There is a no-cost extension of the end date of the Agreement as authorized by a state or federal funding source; or
3. There is a change in state/federal law or regulation requiring a change in a provision of this Agreement.

(c) The Department Director is delegated the authority to modify this Agreement in accordance with subparagraph (b), but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to modify this Agreement under subparagraph (b).

## 2.18 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.

2.19 **Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. **CONTRACTOR acknowledges its independent duty to be and to remain informed of all changes in such laws without reliance on COUNTY to provide notice of such changes.** 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, CONTRACTOR 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 (over 40), 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 (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS, use of family care leave, or political affiliation or belief. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Federal Grant Source. Notwithstanding anything to the contrary in this Agreement, if the funds for this Agreement are derived from a grant from a federal agency, pursuant to 29 CFR 97.36(i)(8) and (9), CONTRACTOR is hereby notified of, and shall comply with the requirements and regulations imposed by the federal granting agency with respect to any discovery or invention which arises or is developed pursuant to this Agreement, and pertaining to any copyrights or rights in data created or otherwise developed when engaging in activities of CONTRACTOR under this Agreement. The requirements and regulations imposed by the federal granting agency are set forth in the original grant agreement specified in Section 1 of the Agreement and are incorporated by reference herein. The original grant agreement is on file with the Clerk of the Board of Supervisors.

(d) Prevailing Wages. If the services to be provided relate to construction or pre-construction-related services, including but not limited to testing, surveying, and inspection, then this Agreement includes the following provisions:

(1) Affected work. CONTRACTOR shall comply with Labor Code sections 1774 and 1775 in relation to payment of prevailing wages for any portion of the required work performed under this Agreement on or after January 1, 2002 relating to construction design, testing, surveying and/inspection work, and construction if the State Director of Industrial Relations has established prevailing wage rates for the types of work involved.

(2) Prevailing wages rates. In accordance with the provisions of Section 1774 of the Labor Code of the State of California, to the extent the Director of Industrial Relations has established the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation and similar purposes) for the above-described portions of the work required under this Agreement, such rates of wages will be on file and available for inspection at the office of the County of Napa Department of Public Works, 1195 Third Street, Room 201, Napa, California.

(3) Payroll records. In accordance with Labor Code section 1776, a copy of all payrolls for work subject to this subparagraph shall be submitted weekly to COUNTY's Director of Public Works. Payrolls shall contain the full name, address and social security number of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. They shall also indicate apprentices and ratio of apprentices to journeymen. The employee's address and social security number need only appear on the first payroll on which his name appears. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or his agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the contract. The "Statement of Compliance" shall be on forms furnished by the Director of Public Works or his designee or on any form with identical wording. CONTRACTOR shall be responsible for the submission of copies of payrolls of all subcontractors.

(4) Apprentices. CONTRACTOR shall be responsible for ensuring compliance with the provisions of Labor Code section 1777.5 relating to employment and

payment of apprentices for work under this Agreement relating to land surveying and/or construction inspection if the total compensation to be paid CONTRACTOR for such work is \$30,000 or more.

(e) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 2.19 in all such subcontracts as obligations of the subcontractor.

(f) Notwithstanding any other provisions of this contract, CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement.

**2.20 Taxes.** CONTRACTOR agrees to file all applicable federal and state tax returns or applicable withholding documents and to pay all applicable taxes or to 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

**2.21 Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records, including clinical documentation, for at least ten (10) years after COUNTY makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

**2.22 Authority to Contract.** CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement. The parties further warrant that the signatories to this Agreement are authorized to execute this Agreement on behalf of their respective parties and that any action necessary to bind each such party has been taken by that party prior to entering into this Agreement.

**2.23 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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY

may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement. The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors terminate this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 COUNTY, through a person authorized to execute this Agreement on behalf of COUNTY, or the Department Director, has determined in writing that CONTRACTOR, although holding a “designated” position as a 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. CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY’s Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

**2.24 Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party’s job openings where such publication or distribution is directed to the general public.

**2.25 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.

**2.26 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.

**2.27 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.

2.28 **Entirety of Contract.** This Agreement, including documents incorporated by reference and 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.

2.29. **Other Terms and Conditions [Reserved.]**

2.30 **Acknowledgment of Funds; Compliance with Government Code Section 7550.**

(a) **In General.** Because the monies provided by COUNTY are funded by taxpayer dollars, it is important that the public know the individuals and organizations that are receiving funds from COUNTY under this Agreement. Therefore, CONTRACTOR shall acknowledge funding received under this Agreement in statements or printed materials relating thereto. All printed materials shall contain the following information in a type size and style appropriate to the materials: “Made possible by funding provided by the County of Napa.”

(b) **Compliance With Government Code Section 7550.** In addition, if the Scope of Work includes preparation of a document or written report and the total cost of the work is more than \$5,000, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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 as required by Government Code section 7550. 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.

2.31 **Compliance with Federal Health Care Program Requirements.** If CONTRACTOR will be performing services under this Agreement that are covered by a Federal Health Care Program, then:

(a) CONTRACTOR shall observe and comply with all applicable Federal Health Care Program Requirements, including but not limited to those requirements set forth in “Addendum For Contracts Involving Federal Health Care Programs—Revision of March 22, 2021.” The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and is online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall attend and/or provide Compliance Trainings as required by the Department Director unless otherwise deemed exempt by the Department Director or designee thereof.

(c) CONTRACTOR shall make COUNTY whole for any revenues lost arising from an act or omission in billing practices by CONTRACTOR.

(d) CONTRACTOR warrants that no one providing services is an Excluded Individual as such term is defined for Federal Health Care Programs.

(e) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR’s failure to comply with the obligations imposed by the “Addendum for Contractors Involving Federal Health Care Programs”. Said penalties and fines that may be

assessed are as follows: civil monetary penalties of \$11,000 per item or service; treble damages for the submission of claims for reimbursement from an excluded health care provider.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the Addenda in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR agrees to abide by COUNTY'S policies entitled "Whistleblower Protections", "The False Claims Act (Federal & State Statutes) & Other Administrative Remedies & Statutes", "Federal Anti-Kickback Prohibitions" and "Physicians Referrals – The Stark Law". The policies are on file with the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(i) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

### **2.32 Compliance with State Medi-Cal Specialty Mental Health Services Requirements.**

If CONTRACTOR, under this Agreement, is required to and performs services that are covered by a State Medi-Cal Specialty Mental Health Services Program, then:

(a) CONTRACTOR shall observe and comply with all applicable State Medi-Cal Specialty Mental Health Services Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Medi-Cal Specialty Mental Health Services-- Revision No. 1" for services performed on or after July 1, 2014. The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator, or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(c) CONTRACTOR is subject to any audits of its services or claims conducted by the Department, the California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.



(d) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, disallowances for payment or lost revenues identified and discovered by COUNTY that are attributable to CONTRACTOR's actions when performing its obligations under this Agreement, such as insufficient documentation by CONTRACTOR of Medical Necessity or billing errors by CONTRACTOR that preclude COUNTY from claiming the Federal Financial Participation share of Medi-Cal or State General Funds.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the applicable Addendum in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.33 Compliance with Mental Health Activities Requirements.** If CONTRACTOR, under this Agreement, is required to perform mental health activities, then:

(a) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(b) CONTRACTOR shall be subject to any audits of its services or claims conducted by Department, California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(c) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, lost revenues as identified and discovered by the COUNTY that are attributable to CONTRACTOR's performance under this Agreement such as CONTRACTOR's insufficient documentation of services as required by the Agreement.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable requirements.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party; CONTRACTOR shall include the provisions of this Paragraph in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.34 Compliance with Federal Health Insurance Portability and Accountability Act of 1996.** If CONTRACTOR shall perform services under this Agreement involving the receipt, use, or disclosure of protected health information, then:

(a) Federal and other applicable law. CONTRACTOR shall observe and comply with all applicable requirements of the Federal Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder by the U.S. Department of Health and Human Services (collectively referred to as "HIPAA"), and other applicable laws.

(b) HIPAA Business Associate Agreement. If applicable, CONTRACTOR shall comply with the terms and conditions of the HIPAA Business Associate Agreement previously entered into with COUNTY, which is incorporated by reference herein and on file with the Clerk of the Board of Supervisors.

(c) Use or Disclosure of Protected Health Information. CONTRACTOR may use or disclose protected health information for the purpose of performing functions, activities for or on behalf of COUNTY, as specified in this Agreement, provided that such use or disclosure would not violate HIPAA, if done by COUNTY, or the provisions of any applicable HIPAA Business Associate Agreement.

(d) Subcontractors. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall require compliance with all applicable HIPAA provisions, other applicable law, and any applicable HIPAA Business Associate Agreement(s) in such subcontracts as obligations of the subcontractor.

**2.35 Compliance With COUNTY's Obligations Under Contracts With Other Entities.** If CONTRACTOR under this Agreement shall perform services as a subcontractor under COUNTY's contract(s) with other entities, including, but not limited to State and Federal Agencies, and such services involve the use or disclosure of personally identifiable information, then:

(a) CONTRACTOR shall observe and comply with all applicable terms of COUNTY's contract(s) with other entities, including, but not limited to, those requirements set forth in "Addendum For Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with the obligations imposed by the "Addendum for Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities".

(c) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the "Addendum for Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" in all such subcontracts as obligations of the subcontractor.

**2.36 Napa Health Matters Listing.** If CONTRACTOR is an organization providing health, human, or social services of a type recognized for listing on the "Napa Health Matters" website, CONTRACTOR agrees to maintain a current and accurate listing on [www.NapaHealthMatters.org](http://www.NapaHealthMatters.org) for such services.

**2.37 Licensure Status.**

(a) License in Good Standing. If CONTRACTOR is providing services under this Agreement as a state-licensed professional, CONTRACTOR shall ensure that CONTRACTOR's professional license is in good standing with all applicable licensing boards. CONTRACTOR understands COUNTY may terminate the Agreement if CONTRACTOR fails to maintain a current professional license in good standing. For purposes of this Agreement, "license in good standing" means there is no suspension, revocation or probation for any reason (including the failure to pay licensing fees), nor any restriction upon the provisions of the license: including, but not limited to, restrictions placed by a licensing agency upon CONTRACTOR's license pursuant to any consent or settlement agreement or to an administrative decision of the licensing agency.

(b) Expiration of License. In the event that CONTRACTOR's professional license is not renewed on or before its expiration, CONTRACTOR shall neither provide nor be reimbursed for services pursuant to this Agreement commencing the day after license expiration and until CONTRACTOR's professional license is renewed. For purposes of this Agreement, renewal date is the date the licensing board issues a renewed license, and it is irrelevant whether the licensing board subsequently recognizes any lapse in licensure.

**2.38 Code of Ethics.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) has adopted a Code of Ethics. If the Department Director determines that the

HHSA Code of Ethics applies to CONTRACTOR's activities under this Agreement, CONTRACTOR shall read, understand, and abide by the Code of Ethics, and CONTRACTOR shall on an annual basis provide written certification to HHSA that CONTRACTOR has received, read, understands, and will abide by HHSA's Code of Ethics. The Code of Ethics may be found online at [www.countyofnapa.org](http://www.countyofnapa.org) or may be obtained from HHSA upon written request.

**2.39 Electronic Billing System.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) operates an electronic billing system program, which seeks reimbursement from the State of California for the delivery of alcohol, drug abuse and mental health services. If CONTRACTOR provides any services related to alcohol, drug abuse or mental health services under the terms of CONTRACTOR's Agreement, CONTRACTOR agrees, upon request of the Director of HHSA or the Director's designee, to implement the COUNTY's sponsored electronic health record system as part of CONTRACTOR's requirement for the delivery of these services.

**2.40 Audit Report Requirements.** If COUNTY has determined that CONTRACTOR is a "subrecipient" (also known as a "pass-through entity") as defined in 2 C.F.R. § 200 et. seq., CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. § 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement. CONTRACTOR shall observe and comply with all applicable Audit Report Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Federal Awards." The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

## **EXHIBIT D(F)**

### **Department of Health Care Services Special Terms and Conditions**

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

## Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	19. Novation Requirements
2. Travel and Per Diem Reimbursement	20. Debarment and Suspension Certification
3. Procurement Rules	21. Smoke-Free Workplace Certification
4. Equipment Ownership / Inventory / Disposition	22. Covenant Against Contingent Fees
5. Subcontract Requirements	23. Payment Withholds
6. Income Restrictions	24. Performance Evaluation
7. Audit and Record Retention	25. Officials Not to Benefit
8. Site Inspection	26. Four-Digit Date Compliance
9. Federal Contract Funds	27. Prohibited Use of State Funds for Software
10. Termination	28. Use of Small, Minority Owned and Women's Businesses
11. Intellectual Property Rights	29. <u>Alien Ineligibility Certification</u>
12. Air or Water Pollution Requirements	30. <u>Union Organizing</u>
13. Prior Approval of Training Seminars, Workshops or Conferences	31. <u>Contract Uniformity (Fringe Benefit Allowability)</u>
14. Confidentiality of Information	32. <u>Suspension or Stop Work Notification</u>
15. Documents, Publications, and Written Reports	33. Public Communications
16. Dispute Resolution Process	34. Compliance with Statutes and Regulations
17. Financial and Compliance Audit Requirements	35. Lobbying Restrictions and Disclosure Certification
18. Human Subjects Use Requirements	

### 1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color,

- religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
  - c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
  - e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts



by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## **2. Travel and Per Diem Reimbursement**

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization

from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

### 3. Procurement Rules

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

#### a. Equipment/Property definitions

Wherever the term equipment and/or property is used, the following definitions shall apply:

(1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

(1) Equipment/property purchases shall not exceed \$50,000 annually.

To secure equipment/property above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be

delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
  - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
  - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
  - (c) Procurements shall be conducted in a manner that provides for all of the following:
    - [1] Avoid purchasing unnecessary or duplicate items.
    - [2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
    - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.

- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### **4. Equipment/Property Ownership / Inventory / Disposition**

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

- a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

- (1) **Reporting of Equipment/Property Receipt** - DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

- (2) **Annual Equipment/Property Inventory** - If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment)

does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
  - (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
  - (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
  - c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
  - d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
    - (1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.
  - e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.
  - f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition

instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

**g. Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

**Automobile Liability Insurance**

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The

certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.

- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
  - [3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

## 5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.

- (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.

- (2) DHCS may identify the information needed to fulfill this requirement.

- (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

- (a) A local governmental entity or the federal government,
  - (b) A State college or State university from any State,
  - (c) A Joint Powers Authority,
  - (d) An auxiliary organization of a California State University or a California community college,
  - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
  - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
  - (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
  - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address:  
<https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>

- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

- (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the



completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.

- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:  
  
"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (*Agreement Number*) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

## **6. Income Restrictions**

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the

extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

## **7. Audit and Record Retention**

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records
  - (1) for a period of three years from the date of final payment under this Agreement, and
  - (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make

available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

## **8. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

## **9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

## **10. Termination**

### **a. For Cause**

The State may terminate this Agreement, in whole or in part, and be relieved of any payments

should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

**b. For Convenience**

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

**11. Intellectual Property Rights**

**a. Ownership**

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade

secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.

- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

**b. Retained Rights / License Rights**

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

**c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made,

conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

**f. Warranties**

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property

made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether



or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

**i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

**12. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt by law.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

**13. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

**14. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to

the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.

- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

## **15. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

## **16. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second

level.

- (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

## **17. Financial and Compliance Audit Requirements**

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
  - (1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill

the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

- (2) *If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement*, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
- (3) *If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 2 C.F.R. §§ 200.64, 200.70, and 200.90) and expends \$750,000 or more in Federal awards*, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 C.F.R. 200.501 entitled "Audit Requirements". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
- (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
  - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
- (4) If the Contractor submits to DHCS a report of an audit other than a 2 C.F.R. 200.501 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.

- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

## **18. Human Subjects Use Requirements**

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human

being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

## **19. Novation Requirements**

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

## **20. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; ~~or~~ commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

- (5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
- (6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
- (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

## **21. Smoke-Free Workplace Certification**

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.



- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

## **22. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

## **23. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

## **24. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

## **25. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision

shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

## **26. Four-Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

## **27. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

## **28. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

## **29. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

## **30. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

## **31. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
  - (1) Be necessary and reasonable for the performance of the Agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
  - (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
  - (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.

- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

**(a) Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

**(b) Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

**(c) Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

## **32. Suspension or Stop Work Notification**

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.

- (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
- (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
  - (a) Cancel, extend, or modify the suspension or stop work notification; or
  - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

### **33. Public Communications**

“Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- A. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices.”

### **34. Compliance with Statutes and Regulations**

- a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.

- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

### **35. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of Title 31, U.S.C.)

#### **a. Certification and Disclosure Requirements**

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of Title 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled “Certification Regarding Lobbying”) that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled “Standard Form-LLL ‘disclosure of Lobbying Activities’”) if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
  - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or

subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.

- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.



**Attachment 1**  
**State of California**  
**Department of Health Care Services**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Napa County  
Name of Contractor

Belia Ramos  
Printed Name of Person Signing for  
Contractor

230302B  
Contract / Grant Number

Signature of Person Signing for  
Contractor

Date

Chair, Board of Supervisors  
Title

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services  
Local Governmental Financing Division  
County-Based Medi-Cal Administrative Activities  
Unit  
1501 Capitol Avenue  
P.O. Box 997436, MS 2628  
Sacramento, CA 95899-7436

DHCS reserves the right to notify the contractor in writing of an alternate submission address.

## Attachment 2

### CERTIFICATION REGARDING LOBBYING

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 0348-0046  
(See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____  date of last report _____.
<b>4. Name and Address of Reporting Entity:</b>  <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier ____, if known:	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>	
<b>6. Federal Department/Agency</b>	<b>7. Federal Program Name/Description:</b>  CDFA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>	
<b>10.a. Name and Address of Lobbying Registrant</b> <i>(If individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from 10a. (Last name, First name, MI):</i>	
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be</b>	Signature _____  Print Name: _____  Title: _____	

subject to a not more than \$100,000 for each such failure.	Telephone No.: _____ Date: _____
<b>Federal Use Only</b>	Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

## **EXHIBIT E**

### **CONTRACTOR'S PRIVACY AND SECURITY COMMITMENTS**

This Exhibit shall constitute the "Agreement" between **SPIRIT OF UNITY IN NAPA dba PUERTAS ABIERTAS COMMUNITY RESOURCE CENTER**. ("CONTRACTOR") and Napa County, and applies to the functions Contractor will perform on behalf of Napa County (collectively, "Services"), that are identified in the Master Agreement.

1. **Purpose.** This Agreement is intended to ensure that CONTRACTOR will establish and implement appropriate privacy and security safeguards with respect to Napa County Confidential Information. Napa County Confidential Information includes:

- Personally Identifiable Information: such as name, date of birth, address, phone number, Social Security Number, California Identification Number, Driver's License Number, email address, ip address, and any other data that could reasonably identify an individual; pertaining to clients or employees of Napa County; and
- Medical Information: any individually identifiable information, in electronic or physical form, pertaining to the past, present or future medical condition of clients or employees of Napa County

2. **Permitted Uses and Disclosures.**

(a) Except as otherwise limited in this Agreement, CONTRACTOR may use or disclose Napa County Confidential Information to perform functions, activities, or services for, or on behalf of Napa County for the purposes specified in Attachment A to this Exhibit, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate California Civil Code Sections 56-56.37, collectively known as the Confidentiality of Medical Information Act (CMIA), and/or any other relevant state and federal privacy laws and regulations. CONTRACTOR must also make reasonable efforts to limit the use and disclosure of Napa County Confidential Information to the Minimum Necessary to accomplish the intended purpose of the use, disclosure, or request.

(b) Except as otherwise limited in this Agreement, CONTRACTOR may use Napa County Confidential Information for the proper management and administration of the CONTRACTOR, or to carry out the legal responsibilities of CONTRACTOR.

(c) Except as otherwise limited in this Agreement, CONTRACTOR may disclose Napa County Confidential Information for the proper management and administration of the CONTRACTOR provided that disclosures are required by law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) CONTRACTOR may use Napa County Confidential Information to report violations of law to appropriate Federal and State authorities.

(e) CONTRACTOR may not use or disclose Napa County Confidential Information in a manner that would violate CMIA (or other relevant state and federal privacy laws and

regulations) if done by Napa County, except for the specific uses and disclosures set forth herein.

**3. Appropriate Safeguards.**

(a) CONTRACTOR agrees to use appropriate safeguards to prevent the use or disclosure of Napa County Confidential Information other than as provided for by this Agreement.

Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Napa County Confidential Information that is created, received, maintained or transmitted on behalf of Napa County and limit its use and disclosure to the minimum necessary.

(b) Safeguarding Electronic Napa County Confidential Information. CONTRACTOR must secure all Electronic Napa County Confidential Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with the National Institute of Standards Technology (NIST) Standards and Federal Information Processing Standards (FIPS) as applicable. Should CONTRACTOR fail to comply with this provision, it agrees to hold harmless, defend at its own expense and indemnify Napa County in accordance with the terms of Section 6 of the Agreement, "Indemnification".

(c) Destruction of Napa County Confidential Information on paper, film, or other hard copy media must involve either shredding or otherwise destroying it so that it cannot be read or reconstructed.

(d) Should any employee or subcontractor of CONTRACTOR have direct, authorized access to computer systems of Napa County that contain Napa County Confidential Information, CONTRACTOR shall immediately notify Napa County of any change of such personnel (e.g. employee or subcontractor termination, or change in assignment where such access is no longer necessary) in order for Napa County to disable the previously authorized access.

**4. Reporting Unauthorized Uses and Disclosures.**

(a) CONTRACTOR agrees to notify Napa County of any access, use or disclosure of Napa County Confidential Information not permitted or provided for by the Agreement of which it becomes aware. Such notification will be made immediately after discovery by telephone call at 707.253.4523, plus e-mail at [Privacy.Officer@countyofnapa.org](mailto:Privacy.Officer@countyofnapa.org), and will include, to the extent possible, the identification of each Individual whose Napa County Confidential Information has been, or is reasonably believed by the CONTRACTOR to have been, accessed, acquired, used or disclosed, a description of the Napa County Confidential Information involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by CONTRACTOR.

(b) A breach or unauthorized access, use, or disclosure shall be treated as discovered by CONTRACTOR on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the CONTRACTOR or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of CONTRACTOR

(c) In meeting its obligations under this section, it is understood that CONTRACTOR is not acting as the Napa County's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Agreement, it is understood and agreed that CONTRACTOR is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.



**5. Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Napa County Confidential Information**

(a) CONTRACTOR agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Napa County Confidential Information by CONTRACTOR or its employees, officers, subcontractors, agents, or other representatives.

(b) Following a breach, security incident, or any unauthorized access, use or disclosure of Napa County Confidential Information, CONTRACTOR agrees to take any and all corrective action(s) necessary to prevent recurrence, to document any such action(s), and to make this documentation available to Napa County.

(c) Except as required by law, CONTRACTOR agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Napa County Confidential Information without obtaining Napa County's prior written consent. Napa County hereby reserves the sole right to determine whether and how such notice is to be provided to any Individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice. When applicable law requires the breach be reported to a federal or state agency or that notice be given to media outlets, CONTRACTOR shall cooperate with and coordinate with Napa County to ensure such reporting is in compliance with applicable law and to prevent duplicate reporting, and to determine responsibilities for reporting.

**6. Indemnification.**

To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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.

**7. Individuals' Rights.**

(a) CONTRACTOR agrees to provide access, at the request of Napa County, and in the time and manner designated by the Napa County, to Napa County Confidential Information to Napa County or, as directed by Napa County, to an Individual.

**8. Agents and Subcontractors of CONTRACTOR.**

(a) CONTRACTOR agrees to enter into written agreements with any agent, subcontractor or vendor, to whom it provides Napa County Confidential Information received from Napa County or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa

County, that impose the same restrictions, conditions and requirements that apply through this Agreement to CONTRACTOR with respect to such information, including the requirement to immediately notify the CONTRACTOR of any instances of any breach, security incident, intrusion, or unauthorized access to or use or disclosure of Napa County Confidential Information of which it becomes aware. Upon request, CONTRACTOR shall provide copies of such agreements to Napa County.

(b) CONTRACTOR shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

**9. Audit, Inspection, and Enforcement.**

(a) CONTRACTOR agrees to make internal practices, books, and records relating to the use and disclosure of Napa County Confidential Information received from Napa County or created, received, maintained, or transmitted by CONTRACTOR on behalf of Napa County, available to any state or federal agency, for the purposes of determining compliance with applicable state and federal privacy laws and regulations.

(b) With reasonable notice, Napa County and its authorized agents or contractors may audit and/or examine CONTRACTOR's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Napa County Confidential Information to determine compliance with the terms of this Agreement. CONTRACTOR shall promptly correct any violation of this Agreement found by Napa County and shall certify in writing that the correction has been made. CONTRACTOR's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Napa County's enforcement rights under this Agreement.

**10. Permissible Requests by Napa County.** Napa County shall not request that CONTRACTOR use or disclose Protected Napa County Confidential Information in any manner that would not be permissible under the relevant state and federal privacy laws and regulations if done by Napa County.

**11. Term and Termination.**

(a) The terms of this Agreement shall remain in effect for the duration of all services provided by CONTRACTOR under the Master Agreement and for so long as CONTRACTOR remains in possession of any Napa County Confidential Information received from Napa County, or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa County unless Napa County has agreed in accordance with this Section 11 that it is not feasible to return or destroy all Napa County Confidential Protected Information.

(b) Upon termination of the Master Agreement, CONTRACTOR shall recover any Napa County Confidential Information relating to the Master Agreement and this Agreement in its possession and in the possession of its subcontractors, agents or representatives. CONTRACTOR shall return to Napa County, or destroy with the consent of Napa County, all such Napa County Confidential Information, in any form, in its possession and shall retain no copies.

(c) If CONTRACTOR believes it is not feasible to return or destroy the Napa County Confidential Information, CONTRACTOR shall so notify Napa County in writing. The notification shall include: (1) a statement that the CONTRACTOR has determined that it is not

feasible to return or destroy the Napa County Confidential Information in its possession, and (2) the specific reasons for such determination. CONTRACTOR may retain only that Napa County Confidential Information which is necessary for CONTRACTOR to continue its proper management and administration or to carry out its legal responsibilities. If Napa County agrees in its sole discretion that CONTRACTOR cannot feasibly return or destroy the Napa County Confidential Information, CONTRACTOR shall ensure that any and all protections, requirements and restrictions contained in the Master Agreement and this Agreement shall be extended to any Napa County Confidential Information for so long as CONTRACTOR maintains such Napa County Confidential Information, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the Napa County Confidential Information infeasible.

(d) Napa County may immediately terminate the Master Agreement if it determines that CONTRACTOR has violated a material term of this Agreement.

(e) Survival. The obligations of CONTRACTOR under this Section 11 shall survive this Agreement.

12. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Napa County and CONTRACTOR to comply with the requirements of relevant state and federal privacy laws and regulations

13. **Notices.**

(a) 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 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.

(b) Any mailed notice, demand, request, consent, approval or communication that Napa County desires to give to CONTRACTOR shall be addressed to CONTRACTOR at the mailing address set forth in the Master Agreement.

(c) Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to Napa County shall be addressed to Napa County at the following address:

Napa County Privacy Officer  
2751 Napa Valley Corporate Drive  
Napa, CA 94558  
707.253.4715

(d) For purposes of subparagraphs (b) and (c) above, either party may change its address by notifying the other party of the change of address.

14. **Lost Revenues; Penalties/Fines.**

(a) Penalties/Fines for Failure to Comply with relevant privacy laws and regulations. CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with the obligations imposed by relevant state and federal privacy laws and regulations.

(b) Penalties/Fines (other). CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines, which may be assessed under a Federal or State False Claims Act provision.

**NAPA COUNTY AGREEMENT NO. 230308B**  
**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT (the “Agreement”)** is made and entered into as of the 1<sup>st</sup> of July 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and **PARENTS CHILD ADVOCACY NETWORK**, a California nonprofit corporation, whose mailing address is 1909 Jefferson Street, Napa, CA 94558, hereinafter referred to as “CONTRACTOR.” COUNTY and CONTRACTOR may be referred to below collectively as “Parties” and individually as “Party.”

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services in order for CONTRACTOR to provide assistance with outreach, enrollment, retention, and utilization of Medi-Cal for all potentially eligible children/families throughout Napa County; and CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein;

**TERMS**

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the Terms and Conditions and their own Exhibits, which together are attached hereto and incorporated by this reference as though set forth in full herein. The Section numbers of any portion of this Agreement may at times be referred to either as “Sections” or “Paragraphs” interchangeably.

**[SIGNATURE PAGE TO FOLLOW]**

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

NAPA COUNTY, a political subdivision of the State of California	CONTRACTOR
<p>By <u>BELIA RAMOS, Chair of the Board of Supervisors</u></p> <p>ATTEST: NEHA HOSKINS, Clerk of the Board</p> <p>By: _____</p> <p>DATE APPROVED BY THE BOARD: _____</p> <p>Processed by: _____ Deputy</p>	<p> MARLENA GARCIA, Executive Director</p> <p> MATTHEW GUGGEMOS, Board President</p>
<p>Maximum Amount of this Agreement: \$ 23,500</p> <p>Term Expires: June 30, 2023</p> <p>Automatic renewal of term does not apply</p>	<p>APPROVED AS TO FORM BY NAPA COUNTY COUNSEL</p> <p>By: <i>Corey S. Utsurogi</i> Date: 2/24/23</p>

## **TERMS AND CONDITIONS OF NAPA COUNTY AGREEMENT NO. 230308B**

### **SECTION 1. Contract Administration**

For purposes of this Agreement, the following shall apply:

- 1.1 “Department” shall mean: Health and Human Services Agency
- 1.2 “Director” shall mean the person elected or appointed to the chief management position of the Department.
- 1.3 “Contract Administrator” shall be: Contracts Analyst or such other person as designated by the Department Director. The address for COUNTY’s Contract Administrator shall be: 2751 Napa Valley Corporate Drive, Building B, 2<sup>nd</sup> Floor, Napa, CA 94559.
- 1.4 The Program Manager for COUNTY shall be: Christine Wu, M.D., Public Health Officer
- 1.5 The Contract Contact Person for CONTRACTOR shall be: Marlana Garcia, 1909 Jefferson Street, Napa, CA 94558
- 1.6 CONTRACTOR is a ☐ sole proprietor ☐ partnership ☒ corporation ☐ public agency ☐ other (specify) .
- 1.7 The source of funding for this Agreement shall be: Health and Human Services Agency General Fund
- 1.8 In entering into this Agreement, CONTRACTOR acknowledges and agrees to abide by the applicable terms of the following COUNTY-entity agreements, and as they may amended from time to time: Department of Health Care Services- Napa County Agreement No. 230296B

These agreements are on file with the Napa County Clerk of the Board of Supervisors and may be accessed at <https://www.countyofnapa.org/DocumentCenter/> under “Departments/Health and Human Services/Administration/Contracts and Administration Documents” (See also Section 2, Paragraphs 2.15(b)(2) and 2.35)

### **SECTION 2. General Terms and Conditions.**

Attached hereto and incorporated by this reference as Exhibit C is “SECTION 2. General Terms and Conditions – Version 12”, which shall be referred to herein as the “General Terms and Conditions” and which shall apply to this Agreement unless otherwise specifically limited or excluded by more specific provisions.

Due to changes in the laws, future versions of General Terms and Conditions shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR, effective within such time period as is designated in Paragraph 2.10 (Other Termination) plus 15 days or as mandated by local, state or federal laws or regulations, whichever date is sooner.

### **SECTION 3. Specific Terms and Conditions.**

The following Specific Terms and Conditions provide additional terms and conditions or modify the General Terms and Conditions of this Agreement. A Specific Term and Condition shall control if a conflict exists with a General Term and Condition.

3.1 The following Specific Terms and Conditions apply when CONTRACTOR's obligations under this Agreement involve the following as designated by an "X":

☒ (a) Contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (General Terms and Conditions Paragraph 2.8(b) applies).

☐ (b) Construction or pre-construction related services (General Terms and Conditions Paragraph 2.19(e) applies).

☐ (c) Work on or the supplying of any software systems or equipment containing or suspected of containing clocks or embedded chips functioning as or dependent upon the use of clocks or calendars (General Terms and Conditions Paragraph 2.29 applies).

☒ (d) Services covered by a Federal Health Care Program (General Terms and Conditions Paragraph 2.31 applies).

☐ (e) Services covered by a State Medi-Cal Specialty Mental Health Program (General Terms and Conditions Paragraph 2.32 applies).

☐ (f) Mental Health Activities (General Terms and Conditions Paragraph 2.33 applies).

☒ (g) Services involving the receipt, use or disclosure of protected health information: A determination has been made by COUNTY's Privacy Officer that CONTRACTOR shall not provide services under this Agreement as a Business Associate to COUNTY. General Terms and Conditions Paragraph 2.34(b) does not apply to this Agreement.

☐ (h) Services provided under COUNTY's Managed Care Provider Program, which shall be subject to all the terms and conditions set forth in the Napa County Mental Health Managed Care Provider Manual, herein incorporated by reference and on file with the Clerk of the Napa County Board of Supervisors.

☐ (i) Services as a provider for which CONTRACTOR has submitted a "Provider Application," which CONTRACTOR warrants that the information contained in said application is accurate and understands that any inaccuracies may be grounds for termination of this Agreement by COUNTY. CONTRACTOR authorizes COUNTY to consult with third parties, including but not limited, to the National Practitioner Data Bank or other applicable licensing boards.

☐ (j) Services involving the use or disclosure of personally identifiable information that are performed as a subcontractor under COUNTY's contract with another entity when that contract requires COUNTY to include its applicable terms in COUNTY's subcontracts. (General Terms and Conditions Paragraph 2.35 applies.)

☐ (k) Services determined by the Department Director to be covered by Department's Code of Ethics. (General Terms and Conditions Paragraph 2.38 applies.) CONTRACTOR



understands that, by entering into this Agreement, CONTRACTOR acknowledges that CONTRACTOR has received, read, and understands the Code of Ethics, and agrees to abide by the terms therein as applicable to CONTRACTOR's activities under this Agreement. Department shall provide CONTRACTOR with copies of Department's Code of Ethics prior to the execution of the Agreement. CONTRACTOR further understands that on an annual basis CONTRACTOR shall provide written certification to Department that CONTRACTOR has received, read, understands, and will abide by Department's Code of Ethics.

[ X ] (l) Services have been determined by the Department Director, or may be determined at a later date, that CONTRACTOR is a subrecipient or pass-through entity and is therefore required to meet all of the requirements found in 2 C.F.R. § 200.331. (General Terms and Conditions 2.40 applies.) COUNTY shall notify CONTRACTOR in accordance with General Terms and Conditions Paragraph 2.13 (Notices), of any change in designation as a subrecipient, and any subsequent increase to the amount of Federal funding CONTRACTOR shall receive under the terms of this Agreement. CONTRACTOR shall be bound thereby upon receipt of notice.

### 3.2 Source Funding.

(a) Change in Source Funding. Paragraph 1.7 may be unilaterally modified by COUNTY upon written notice to CONTRACTOR who shall be bound thereby immediately upon receipt. The Department Director is delegated the authority to modify Paragraph 1.7 and provide such written notice, but may exercise such authority only after consultation with, and concurrence of, the Napa County Counsel and the Napa County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Napa County Board of Supervisors to modify Paragraph 1.7.

(b) Amendment to Source Funding Agreement. If Paragraph 1.7 identifies a funding source agreement, then any amendment to the funding source agreement shall be automatically incorporated and made a part of this Agreement, effective in accordance with the amended funding source agreement. As a subcontractor of COUNTY, CONTRACTOR shall be bound by the applicable terms of the funding source agreement, and any amendments thereto.

3.3 Statement of Economic Interests. By authorizing its Chair to execute this Agreement on its behalf, COUNTY's Board of Supervisors hereby determines in writing on behalf of COUNTY that CONTRACTOR has been hired to perform a range of duties so limited in scope as to not be required to comply with the disclosure obligations set forth in Paragraph 2.23(b).

3.4 Term of Agreement. Section 2.1 (b) of the General Terms and Conditions does not apply to this Agreement. The term of this Agreement shall commence on the date written on page 1 and shall expire of **June 30, 2023**, unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Termination for Convenience) or 2.23 (a) (Covenant of No Undisclosed Conflict). The obligations of the Parties under Paragraphs 2.7 (Insurance) and 2.8 (Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes) and 2.21 (Access to Records/Retention).

3.5 COUNTY delegates its authority to the Director of the Health and Human Services Agency to approve future amendments to Exhibits A and B, attached to this Agreement, provided that any such amendment does not materially alter the nature of the services to be provided or increase the maximum compensation available under this Agreement.

**SECTION 4. Incorporated Documents.**

The following documents are incorporated herein by this reference and attached hereto and labeled as the following Exhibit letters:

Exhibit A: Scope of Work

Exhibit B: Compensation and Financial Reporting

Exhibit C: "Section 2, General Terms and Conditions, Version 12"

Exhibit D(F): Department of Health Care Services "Special Terms and Conditions"

Exhibit E: Contractor's Privacy and Security Commitments

**EXHIBIT A**  
**SCOPE OF WORK**

**MEDI-CAL ADMINISTRATIVE ACTIVITIES**

Medi-Cal Administrative Activities, or MAA, are activities performed that are necessary for the proper and efficient administration of the Medi-Cal State Plan. The Local Government Agency (LGA), or the designated entity responsible for administering MAA locally, is Napa County Health and Human Services Agency (HHSA). The LGA may subcontract with community-based organizations to perform MAA.

In FY 13-14 Napa County HHSA launched a community-wide effort to outreach and enroll uninsured and potentially eligible residents in Medi-Cal coverage and to link them to needed health/behavioral health services. The essential component of this effort is subcontracting with qualified and interested CBOs to link Medi-Cal eligible and potentially eligible individuals with Medi-Cal covered services as well as assist in the Medi-Cal application process. Currently, many CBOs are the first place low-income individuals and families go for services including: Medi-Cal and Medi-Cal covered service information, referral and facilitation of the Medi-Cal application. Napa County recognizes the unique relationship that CBOs have with the Medi-Cal eligible population and wishes to maximize this relationship in assuring the availability and accessibility of Medi-Cal services.

Eligibility for Medi-Cal was expanded under the Affordable Care Act and more residents are eligible for Medi-Cal. This project intends to have a positive, proactive impact in reaching the uninsured by leveraging the effectiveness that CBOs have in linking people to the appropriate services within the county. The project also intends to ensure there is a greater chance that anyone who needs health/behavioral health care successfully connects and engages in those services.

As a participant in this project, CONTRACTOR is expected to carry out the duties specified below to ensure to the greatest extent practicable that: Uninsured Napa residents who are eligible for Medi-Cal coverage receive it and access the care they need.

**Type of MAA Activities to be performed:**

- 1) **Allowable Medi-Cal Outreach**: This activity may consist of discrete campaigns or may be an ongoing activity. This activity is directed to groups or individuals targeted to two goals:
  - Bringing potentially eligible people into the Medi-Cal system for the purpose of determining Medi-Cal eligibility; and
  - Bringing Medi-Cal eligible people into Medi-Cal services.

Outreach may consist of discrete campaigns or may be an ongoing activity, such as: sending teams of employees into the community to contact homeless alcoholics or drug abusers; establishing a telephone or walk-in service for referring persons to Medi-Cal services or eligibility offices; operating a drop-in community center for underserved populations, such as minority teenagers where Medi-Cal eligibility and service information is disseminated.

The following activities describe how outreach shall be performed:

- a. Outreach campaigns directed to the entire population to encourage potential Medi-Cal eligible individuals to apply for Medi-Cal. These campaigns are Medi-Cal only eligibility outreach campaigns.
- b. Outreach campaigns directed toward bringing Medi-Cal eligible individuals into Medi-Cal covered services. In such campaigns, the language should clearly indicate that the message is directed to only persons eligible for Medi-Cal, and not the general public. These campaigns are service campaigns, targeted to specific Medi-Cal services, such as Early and Periodic Screening, Diagnosis and Treatment (EPSDT).
- c. Informing children and their families on how to effectively access, use and maintain participation in all health resources under the Medi-Cal program.
- d. Informing individuals or the general public about the benefits and services that the Medi-Cal program offers and encouraging and referring them to apply for Medi-Cal benefits.
- e. Providing initial referral assistance to families and individuals to Medi-Cal services.

Note: A health education program or campaign may be allowable as a Medi-Cal administrative cost if it is targeted specifically to Medi-Cal services and for Medi-Cal eligible individuals, such as an educational campaign on immunization addressed to parents of Medi-Cal children.

**2) Facilitating Medi-Cal Application (Eligibility Intake and Renewal):** Activities are those that facilitate the completion of the Medi-Cal application and renewal process and ensuring linkage with the Self Sufficiency Services Division for eligibility determinations. They include:

- a. Explain Medi-Cal eligibility rules and the Medi-Cal eligibility process to prospective applicants; assist an applicant to fill out a Medi-Cal eligibility application; gather information related to the application and eligibility determination from a client, including resource information and third party liability information, as a prelude to submitting a formal Medi-Cal application to the Self Sufficiency Services Division of Health and Human Services; and/or

provide necessary forms and packaging all forms in preparation for the Medi-Cal eligibility determination.

- b. Assist the beneficiary in completing necessary application for redetermination, gather information related to the application and assist in submitting the application to the Self Sufficiency Services and Comprehensive Services for Older Adults Divisions of Health and Human Services.
- c. These activities do not include the eligibility determination or redetermination itself.

### **Performance Targets**

CONTRACTOR shall participate in at least 20 outreach events.

CONTRACTOR shall outreach to at least 1250 individuals, providing information about Medi-Cal coverage and Medi-Cal covered services.

CONTRACTOR shall refer and successfully link at least 350 individuals to Medi-Cal coverage and/or Medi-Cal covered services.

CONTRACTOR shall facilitate at least 20 Medi-Cal applications through to the point of submission for eligibility determinations and re-determinations to the Self Sufficiency Services and/or Comprehensive Services for Older Adults Divisions of Health and Human Services.

### **Quarterly Reporting**

CONTRACTOR shall provide quarterly reports as indicated in the schedule included in Exhibit B, "COMPENSATION." Reports will include documentation to support the number and type of outreach events (e.g. flyers, brochures, dates and announcements of events) and the number of individuals and/or families reached through ongoing outreach efforts. The reports will also include documentation to support the number of individuals and/or families assisted with application or re-determination for Medi-Cal (e.g. client count of applications ) and the number of Medi-Cal beneficiaries linked to Medi-Cal services (e.g. client count). Finally, the reports will include certification that costs incurred were directly related to the provision of MAA allowable activities.

### **Compliance with MAA Requirements**

CONTRACTOR shall comply with MAA requirements such as completing mandated covered contractor provisions and providing documentation that the organization is meeting requirements of the MAA claiming plan for which they are included such as submitting to HHSA the job descriptions for the staff performing MAA activities.

CONTRACTOR understands that the MAA activities and expenditures performed by CONTRACTOR are subject to the requirements set forth in the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link: [https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf) CONTRACTOR shall comply with the requirements of the DHCS MAA Operational Plan.

CONTRACTOR understands that the information presented to COUNTY by CONTRACTOR under this Agreement shall be used for filing a claim with the Federal Government for federal funds, and that any knowing misrepresentation constitutes a violation of the Federal False Claims Act.

**EXHIBIT B**  
**COMPENSATION**

**MEDI-CAL ADMINISTRATIVE ACTIVITIES**

COUNTY shall reimburse CONTRACTOR for Medi-Cal Administrative Activities (MAA) described in Exhibit A as follows:

**1. Amount**

CONTRACTOR shall be reimbursed up to a maximum of \$23,500 for the term of the Agreement. Funding to the CONTRACTOR shall be contingent upon availability of funds for source of certified public expenditure. CONTRACTOR shall have the flexibility of transferring expenditure amounts between line items (activities) in the Program Budget, provided that no transfer shall exceed twenty percent (20%) of the line from which transferred. Any transfer in excess of 20% per line must be approved in writing in advance by COUNTY Health Director or designee.

- CONTRACTOR shall be reimbursed a maximum of \$17,502 for Medi-Cal Outreach as described in Exhibit A.
- CONTRACTOR shall be reimbursed a maximum of \$5,998 for Facilitating the Medi-Cal Application as described in Exhibit A.

CONTRACTOR shall be able to verify that expenditures related to its provision of MAA activities represent accurately identifiable and eligible costs, and that CONTRACTOR has excluded any non-claimable non-salary costs in compliance with the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link:

[https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf)

**2. Certified Public Expenditure**

This Renewal Agreement is funded by County General funds and Mental Health Services Act funds that CONTRACTOR was awarded under Napa County Grant Agreement No. 230041B. CONTRACTOR may not use the funds received under the aforementioned agreements to claim reimbursement for any other Federal program.

ACTIVITY	Contract #230041B	This Agreement
Medi-Cal Outreach	\$23,584	\$17,502
Medi-Cal Application Facilitation	\$0	\$5,998

### 3. **Method of Payment**

CONTRACTOR must submit an invoice or claim form to the County Fiscal Analyst, not to exceed the contract maximum. Actual annual reimbursement shall be based on CONTRACTOR's actual cost, not to exceed the annual maximum operating budget amount in each Fiscal Year. The quarterly reports and invoices due, as noted below, shall identify the activities conducted and expenditures made during the previous quarter ending on the last date of the calendar month prior to the report due date. Payment will be made following receipt of the report and invoice. COUNTY shall not release payments until CONTRACTOR has submitted reports for the previous quarter.

<b>CONTRACT PERIOD</b>	<b>REPORT/INVOICE DUE DATE</b>
July 1, 2022– September 30, 2022	Upon Contract Execution
October 1, 2022 – December 31, 2022	January 31, 2023
January 1, 2023– March 31, 2023	April 30, 2023
April 1, 2023– June 30, 2023	July 15, 2023

CONTRACTOR shall, on each quarterly invoice, certify that the expenditures incurred represent accurate identifiable and eligible costs, and that CONTRACTOR's expenditures were made on eligible MAA claimable activities, as set forth in Exhibit A of this Agreement. CONTRACTOR's expenditures incurred for each of the two MAA activities shall be separately identified. CONTRACTOR shall provide certification in a manner, and on an invoice, provided by COUNTY.

### 4. **Contract Monitoring**

COUNTY will meet with CONTRACTOR during the initial months/quarters of this agreement to review documentation that supports MAA invoicing and to provide technical assistance as needed. CONTRACTOR shall meet at least once a year with COUNTY thereafter to coordinate and review fulfillments of contract terms, and address any potential impediments to the fulfillment of the terms of this agreement. Such review shall extend to an examination of type and quantity of services provided, interagency coordination, and any other issues pertinent to this agreement.

- CONTRACTOR is responsible for maintaining all documentation required for monitoring.
- CONTRACTOR shall request technical assistance from the COUNTY regarding elements of the contract with which they need assistance. COUNTY shall consider any such request and shall provide technical assistance to the CONTRACTOR if the COUNTY has the capacity and capability to do so. CONTRACTOR maintains responsibility for ensuring that its services and activities are in compliance with applicable regulations.
- COUNTY normally shall provide 30-day notice of the site visit to the CONTRACTOR and shall specify the documentation that will need to be available at the time of the visit.



- Under normal circumstances, the visit may require the review of the following documents: records that delineate the MAA activities from other activities, support full expenditure of funding and that expenditures were directly related to MAA activities, demonstrate covered contractor screening provisions have been met, and any other documentation the COUNTY may request to be reviewed to ensure CONTRACTOR meeting state and federal requirements delegated through the contract.
- COUNTY shall provide CONTRACTOR with the opportunity to respond to the COUNTY'S written report of the site visit prior to the report becoming final.
- If the final report identifies material variations between the CONTRACTOR'S activities and the requirements of the contract, the COUNTY may require the CONTRACTOR to prepare a written plan of action to address those variations.

**5. Program Name and Number for Federal Claiming**

Title 31- Money and Finance, Subtitle V – General Assistance Administration, Chapter 75 - Requirements for Single Audits, Section 7502 requires each pass-through entity provide the sub recipient program names and any identifying numbers from which such assistance is derived. The Catalog of Federal Domestic Assistance (CFDA) number for this federal program is 93.778, Medical Assistance Program.

**6. Disallowed Costs**

COUNTY shall withhold any payments for services for which documentation of activities and expenditures is not sufficient to claim the Federal Financial share of MAA.

CONTRACTOR shall reimburse COUNTY for all overpayments identified by CONTRACTOR, COUNTY and/or State or Federal oversight agencies as an audit exception. CONTRACTOR shall make any repayment based on audit exception(s) upon discovery of said exception(s). If reimbursement is required, CONTRACTOR shall reimburse COUNTY within 60 days of identification.

## **EXHIBIT C**

### **SECTION 2. GENERAL TERMS AND CONDITIONS --VERSION 12**

#### **2.1 Term of the Agreement.**

(a) Term. The term of this Agreement shall commence on the date first written on page 1 and shall expire on the expiration date set forth on page 1 unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Other Termination) or 2.23(a) (Covenant of No Undisclosed Conflict).

(b) Automatic Renewal. The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the same terms and conditions, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30. COUNTY authorizes the Department Director to determine whether this Agreement shall not be renewed and to provide the written notice of the intention to not renew on behalf of COUNTY.

(c) Obligations Extending Beyond Term. The obligations of the parties under Paragraphs 2.7 (Insurance) and 2.8 (Hold Harmless/Defense/Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes), 2.21 (Access to Records/Retention), 2.31 (Compliance with Federal Health Care Program Requirements), 2.32 (Compliance with State Medi-Cal Specialty Mental Health Services Requirements), and 2.33 (Compliance with Mental Health Activities Requirements). To the extent the paragraphs referenced in this Paragraph 2.1 may be modified by Specific Terms and Conditions contained in SECTION 3 of this Agreement, the modifications shall also continue after the expiration date or early termination.

**2.2 Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A."

#### **2.3 Compensation.**

(a) Compensation/Maximum. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates and/or in the amount(s) set forth in Exhibit "B". The maximum payment for the initial term of this Agreement, and the successive maximum payments for each subsequent automatically renewed term, shall each be that maximum amount set forth on page 1; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

(b) Advance Funding.

1. Use of Funds. To the extent this Agreement may permit advance funding of services and expenses, use of funds delineated in this Agreement is limited to the term of

performance unless otherwise modified in accordance with Paragraph 2.17 (Amendment/Modification). COUNTY may at its discretion recapture funds obligated under the authority of this Agreement if expenditure plans are not being met.

2. Reversion of Funds. If funds awarded to CONTRACTOR have not been expended in accordance with this Agreement and COUNTY has determined after consultation with CONTRACTOR that funds will not be spent in a timely manner, such funds will revert to COUNTY for that reason and to the extent permitted by and in a manner consistent with federal and state law, regulations, and policies.

(c) Availability of Funds. It is mutually understood that, for the benefit of both parties, this Agreement may have been written before ascertaining the availability of congressional and/or state legislative appropriation of funds in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made. If funding of this Agreement is dependent upon the availability of congressional and legislative appropriation of funds, then:

1. This Agreement shall be deemed automatically terminated if the Congress and and/or the State Legislature do not appropriate funds needed for this Agreement;

2. At COUNTY's discretion, this Agreement may be deemed automatically terminated or this Agreement may be modified or amended in accordance with Paragraph 2.17 (Amendment/Modifications), if the Congress and/or State Legislature do not appropriate sufficient funds needed for this Agreement; and

3. This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or State Legislature, or any statute enacted by the Congress or State Legislature, that may in any manner affect the provisions, terms, or funding of this Agreement.

(d) COUNTY may withhold any compensation due CONTRACTOR as an offset for any revenues lost arising from an act or omission in billing or documentation practices by CONTRACTOR. CONTRACTOR shall make COUNTY whole for any such lost revenues.

## **2.4 Method of Payment.**

(a) Invoices. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR'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 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. Where expense reimbursement is sought, the invoice shall describe the nature and cost of the expense, the task(s) if any to which the expense was related, and the date incurred. CONTRACTOR shall submit invoices not more often than monthly to the Contract Administrator. After review and approval as to form and content, the invoice shall be submitted to the Napa County Auditor no later than fifteen (15) calendar days following receipt.

(b) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Contract Administrator upon request during the term of this Agreement in a form 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 CONTRACTOR within the State of California.

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

**2.6 Specific Performance.** It is agreed that CONTRACTOR, including the agents, employees and authorized subcontractors of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

**2.7 Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability Insurance. CONTRACTOR 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:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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 CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. 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 of Coverage. All insurance coverages referenced in 2.7(b), 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 CONTRACTOR with the Health and Human Services Agency prior to commencement of performance of any of CONTRACTOR's duties.

(1) 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, other termination, or material change, 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 2.7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 2.7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR 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 CONTRACTOR not covered by this Agreement, then the limits in

the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR 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 2.7.

(f) Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve CONTRACTOR, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

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

(a) In General. To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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) Obligations Relating to Criminal Background Checks.

1. If CONTRACTOR's obligations under this Agreement involve contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (hereafter in this paragraph referred to as "third persons"), then CONTRACTOR shall investigate by all lawful means, including but not limited to obtaining information from official government sources as the result of taking fingerprints, the criminal background of each and all of its officers, agents, employees, interns, and volunteers, however denominated (hereafter, "employees"), who will have direct personal contact with, or provide direct personal services to, third persons in the performance of this contract. Depending upon the information acquired by its investigation, CONTRACTOR shall not allow any of its employees to have personal contact with, or provide direct personal services to, third persons where it may reasonably be concluded as a result of its investigation that an employee should not have such contact or provide such service. Nothing herein requires CONTRACTOR to investigate the criminal background of an employee who is currently licensed by the State of California and whose license requires a criminal background investigation.

2. Notwithstanding anything to the contrary in (a) or (c), CONTRACTOR shall defend and indemnify COUNTY and its officers, agents and employees from any and all claims, actions, settlements or judgments of whatever kind which may arise from the failure of CONTRACTOR to conduct the criminal background investigation described in this subparagraph (b) or from the failure of CONTRACTOR after the investigation to reasonably disallow an employee from having such personal contact or providing such direct personal service.

(c) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

**2.9 Termination for Cause.**

(a) 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 written notice to the defaulting party in the manner set forth in Paragraph 2.13 (Notices).

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

## **2.10 Other Termination.**

(a) This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party 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 COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination.

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

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

(a) Upon expiration or termination of this Agreement, if and to the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(b) 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 COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR 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 CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof.

(c) Notwithstanding the provisions set forth in subparagraph (b ) above, if the services involve development or improvement of previously patented inventions or previously copyrighted software, upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or



shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(d) CONTRACTOR 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 notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or was otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

2.12 **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.

2.13 **Notices.**

(a) In General. Except as set forth in subparagraph (b) below with respect to notice of automatically adopted provisions, 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 notice sent by mail in the manner prescribed by this subparagraph 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. Any mailed notice, demand, request, consent, approval or communication that COUNTY desires to give to CONTRACTOR shall be addressed to CONTRACTOR's Contract Contact Person at the mailing address set forth in SECTION 1 of this Agreement. Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to COUNTY shall be addressed to COUNTY's Contract Administrator at the mailing address set forth in SECTION 1 of this Agreement. Either party may change its address by notifying the other party of the change of address.

(b) Provisions Adopted Automatically. COUNTY reserves the right to provide notice to CONTRACTOR via facsimile of terms, which automatically become part of this Agreement upon approval by the Napa County Board of Supervisors. Notice delivered by facsimile shall be deemed to have been received on the date a successful delivery confirmation report is generated.

(c) Waiver of Notice by CONTRACTOR. If receipt of notice is refused by CONTRACTOR or if notice is undeliverable due to CONTRACTOR's failure to provide a change of address, notice shall be deemed waived and COUNTY may proceed as though notice were accomplished.

**2.14 Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. Future versions of the following policies shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR pursuant to Paragraph 2.13. CONTRACTOR 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 COUNTY employees or contractors.

- (a) Waste Source Reduction and Recycled Product Content Procurement Policy.
- (b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment."
- (c) Drug and Alcohol Policy.
- (d) Napa County Information Technology Use and Security Policy. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.
- (e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

**2.15 Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to or created by CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive or create, if any, in trust and confidence, except with the prior written approval of COUNTY, as expressed through the Department Director. Upon cancellation or expiration of this Agreement, to the extent permitted by law, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring

data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR agrees to adhere to the applicable terms regarding the privacy and security of Protected Information as set forth in the COUNTY-entity agreements identified in Paragraph 1.8 of Section 1 of this Agreement (Contract Administration). CONTRACTOR shall also observe and comply with those requirements set forth in “Addendum For Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County’s Agreements with Other Entities” which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(3) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY’s Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 2.15.

(4) CONTRACTOR agrees to notify COUNTY, by and through the Napa County Privacy Officer at 2751 Napa Valley Corporate Dr. Suite B, Napa, CA 94559, or 707.253-4715, immediately in the following instances:

(A) Upon the discovery of a breach of PHI/PII/other Protected Information in electronic or other media;

(B) Upon the discovery that PHI/PII/other Protected Information was, or is reasonably believed to have been accessed or acquired by an unauthorized person;

(C) Upon the discovery of a suspected security incident that involves PHI/PII/other Protected Information; or

(D) Upon the discovery of any breach, security incident, intrusion, or unauthorized access, use, or disclosure of PHI/PII/other Protected Information.

(5) CONTRACTOR will be responsible for all costs associated with CONTRACTOR’s breach of the security and privacy of PHI/PII/other Protected Information, or its unauthorized access to or disclosure of PHI/PII/or other Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

(c) To the extent CONTRACTOR creates, is provided, or has access to applications and records concerning any individual made or kept by COUNTY in connection with public social services (records) as defined in California Welfare & Institutions Code Section 10850, CONTRACTOR shall maintain the confidentiality of such records in accordance with Section 10850, except as otherwise permitted by COUNTY and as necessary for purposes of providing services under this Agreement.

(d) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY’s data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COUNTY data against a breach of protected data if

lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COUNTY data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COUNTY data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COUNTY for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COUNTY must bear.

(e) HHS Contractor Security Requirements. Whenever CONTRACTOR utilizes their own equipment to perform work under this Agreement, CONTRACTOR warrants that they have reviewed "HHS Contractor Security Requirements" and can adhere to the minimum standards at all time. A copy of "HHS Contractor Security Requirements" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

#### **2.16 No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

#### **2.17 Amendment/Modification.**

(a) Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only COUNTY, by the Department Director (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed \$10,000), or by COUNTY's Purchasing Agent (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed the maximum aggregate amount for Purchasing Agent contracts as specified by Napa

County Code section 2.36.040 (G)) or by COUNTY's Board of Supervisors (in all other instances), in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by "Exhibit A." Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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.

(b) Notwithstanding anything to the contrary in (a), this Agreement may be unilaterally modified by COUNTY upon written notice to CONTRACTOR under the following circumstances:

1. There is a decrease in state or federal funding needed for this Agreement;
2. There is a no-cost extension of the end date of the Agreement as authorized by a state or federal funding source; or
3. There is a change in state/federal law or regulation requiring a change in a provision of this Agreement.

(c) The Department Director is delegated the authority to modify this Agreement in accordance with subparagraph (b), but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to modify this Agreement under subparagraph (b).

## 2.18 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.

2.19 **Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. **CONTRACTOR acknowledges its independent duty to be and to remain informed of all changes in such laws without reliance on COUNTY to provide notice of such changes.** 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, CONTRACTOR 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 (over 40), 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 (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS, use of family care leave, or political affiliation or belief. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Federal Grant Source. Notwithstanding anything to the contrary in this Agreement, if the funds for this Agreement are derived from a grant from a federal agency, pursuant to 29 CFR 97.36(i)(8) and (9), CONTRACTOR is hereby notified of, and shall comply with the requirements and regulations imposed by the federal granting agency with respect to any discovery or invention which arises or is developed pursuant to this Agreement, and pertaining to any copyrights or rights in data created or otherwise developed when engaging in activities of CONTRACTOR under this Agreement. The requirements and regulations imposed by the federal granting agency are set forth in the original grant agreement specified in Section 1 of the Agreement and are incorporated by reference herein. The original grant agreement is on file with the Clerk of the Board of Supervisors.

(d) Prevailing Wages. If the services to be provided relate to construction or pre-construction-related services, including but not limited to testing, surveying, and inspection, then this Agreement includes the following provisions:

(1) Affected work. CONTRACTOR shall comply with Labor Code sections 1774 and 1775 in relation to payment of prevailing wages for any portion of the required work performed under this Agreement on or after January 1, 2002 relating to construction design,

testing, surveying and/inspection work, and construction if the State Director of Industrial Relations has established prevailing wage rates for the types of work involved.

(2) Prevailing wages rates. In accordance with the provisions of Section 1774 of the Labor Code of the State of California, to the extent the Director of Industrial Relations has established the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation and similar purposes) for the above-described portions of the work required under this Agreement, such rates of wages will be on file and available for inspection at the office of the County of Napa Department of Public Works, 1195 Third Street, Room 201, Napa, California.

(3) Payroll records. In accordance with Labor Code section 1776, a copy of all payrolls for work subject to this subparagraph shall be submitted weekly to COUNTY's Director of Public Works. Payrolls shall contain the full name, address and social security number of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. They shall also indicate apprentices and ratio of apprentices to journeymen. The employee's address and social security number need only appear on the first payroll on which his name appears. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or his agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the contract. The "Statement of Compliance" shall be on forms furnished by the Director of Public Works or his designee or on any form with identical wording. CONTRACTOR shall be responsible for the submission of copies of payrolls of all subcontractors.

(4) Apprentices. CONTRACTOR shall be responsible for ensuring compliance with the provisions of Labor Code section 1777.5 relating to employment and payment of apprentices for work under this Agreement relating to land surveying and/or construction inspection if the total compensation to be paid CONTRACTOR for such work is \$30,000 or more.

(e) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 2.19 in all such subcontracts as obligations of the subcontractor.

(f) Notwithstanding any other provisions of this contract, CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement.

**2.20 Taxes.** CONTRACTOR agrees to file all applicable federal and state tax returns or applicable withholding documents and to pay all applicable taxes or to 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance

regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

**2.21 Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records, including clinical documentation, for at least ten (10) years after COUNTY makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

**2.22 Authority to Contract.** CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement. The parties further warrant that the signatories to this Agreement are authorized to execute this Agreement on behalf of their respective parties and that any action necessary to bind each such party has been taken by that party prior to entering into this Agreement.

**2.23 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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement. The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors terminate this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 COUNTY, through a person authorized to execute this Agreement on behalf of COUNTY, or the Department Director, has determined in writing that



CONTRACTOR, although holding a “designated” position as a 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. CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY’s Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

**2.24 Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party’s job openings where such publication or distribution is directed to the general public.

**2.25 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.

**2.26 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.

**2.27 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.

**2.28 Entirety of Contract.** This Agreement, including documents incorporated by reference and 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.

**2.29. Other Terms and Conditions [Reserved.]**

**2.30 Acknowledgment of Funds; Compliance with Government Code Section 7550.**

(a) **In General.** Because the monies provided by COUNTY are funded by taxpayer dollars, it is important that the public know the individuals and organizations that are receiving funds from COUNTY under this Agreement. Therefore, CONTRACTOR shall acknowledge funding received under this Agreement in statements or printed materials relating thereto. All printed materials shall contain the following information in a type size and style appropriate to the materials: “Made possible by funding provided by the County of Napa.”

(b) **Compliance With Government Code Section 7550.** In addition, if the Scope of Work includes preparation of a document or written report and the total cost of the work is more

than \$5,000, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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 as required by Government Code section 7550. 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.

**2.31 Compliance with Federal Health Care Program Requirements.** If CONTRACTOR will be performing services under this Agreement that are covered by a Federal Health Care Program, then:

(a) CONTRACTOR shall observe and comply with all applicable Federal Health Care Program Requirements, including but not limited to those requirements set forth in “Addendum For Contracts Involving Federal Health Care Programs—Revision of March 22, 2021.” The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and is online at:

[www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall attend and/or provide Compliance Trainings as required by the Department Director unless otherwise deemed exempt by the Department Director or designee thereof.

(c) CONTRACTOR shall make COUNTY whole for any revenues lost arising from an act or omission in billing practices by CONTRACTOR.

(d) CONTRACTOR warrants that no one providing services is an Excluded Individual as such term is defined for Federal Health Care Programs.

(e) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR’s failure to comply with the obligations imposed by the “Addendum for Contractors Involving Federal Health Care Programs”. Said penalties and fines that may be assessed are as follows: civil monetary penalties of \$11,000 per item or service; treble damages for the submission of claims for reimbursement from an excluded health care provider.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR’s failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the Addenda in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR agrees to abide by COUNTY’S policies entitled “Whistleblower Protections”, “The False Claims Act (Federal & State Statutes) & Other Administrative Remedies & Statutes”, “Federal Anti-Kickback Prohibitions” and “Physicians Referrals – The Stark Law”. The policies are on file with the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(i) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.32 Compliance with State Medi-Cal Specialty Mental Health Services Requirements.**

If CONTRACTOR, under this Agreement, is required to and performs services that are covered by a State Medi-Cal Specialty Mental Health Services Program, then:

(a) CONTRACTOR shall observe and comply with all applicable State Medi-Cal Specialty Mental Health Services Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Medi-Cal Specialty Mental Health Services-- Revision No. 1" for services performed on or after July 1, 2014. The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator, or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(c) CONTRACTOR is subject to any audits of its services or claims conducted by the Department, the California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(d) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, disallowances for payment or lost revenues identified and discovered by COUNTY that are attributable to CONTRACTOR's actions when performing its obligations under this Agreement, such as insufficient documentation by CONTRACTOR of Medical Necessity or billing errors by CONTRACTOR that preclude COUNTY from claiming the Federal Financial Participation share of Medi-Cal or State General Funds.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care

Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the applicable Addendum in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.33 Compliance with Mental Health Activities Requirements.** If CONTRACTOR, under this Agreement, is required to perform mental health activities, then:

(a) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(b) CONTRACTOR shall be subject to any audits of its services or claims conducted by Department, California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(c) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, lost revenues as identified and discovered by the COUNTY that are attributable to CONTRACTOR's performance under this Agreement such as CONTRACTOR's insufficient documentation of services as required by the Agreement.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable requirements.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party; CONTRACTOR shall include the provisions of this Paragraph in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.34 Compliance with Federal Health Insurance Portability and Accountability Act of 1996.** If CONTRACTOR shall perform services under this Agreement involving the receipt, use, or disclosure of protected health information, then:

(a) Federal and other applicable law. CONTRACTOR shall observe and comply with all applicable requirements of the Federal Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder by the U.S. Department of Health and Human Services (collectively referred to as "HIPAA"), and other applicable laws.

(b) HIPAA Business Associate Agreement. If applicable, CONTRACTOR shall comply with the terms and conditions of the HIPAA Business Associate Agreement previously entered into with COUNTY, which is incorporated by reference herein and on file with the Clerk of the Board of Supervisors.

(c) Use or Disclosure of Protected Health Information. CONTRACTOR may use or disclose protected health information for the purpose of performing functions, activities for or on behalf of COUNTY, as specified in this Agreement, provided that such use or disclosure would not violate HIPAA, if done by COUNTY, or the provisions of any applicable HIPAA Business Associate Agreement.

(d) Subcontractors. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall require compliance with all applicable HIPAA provisions, other applicable law, and any applicable HIPAA Business Associate Agreement(s) in such subcontracts as obligations of the subcontractor.

**2.35 Compliance With COUNTY's Obligations Under Contracts With Other Entities.** If CONTRACTOR under this Agreement shall perform services as a subcontractor under COUNTY's contract(s) with other entities, including, but not limited to State and Federal Agencies, and such services involve the use or disclosure of personally identifiable information, then:

(a) CONTRACTOR shall observe and comply with all applicable terms of COUNTY's contract(s) with other entities, including, but not limited to, those requirements set forth in "Addendum For Contracts Involving Personally Identifiable Information Subject to

Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with the obligations imposed by the "Addendum for Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities".

(c) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the "Addendum for Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" in all such subcontracts as obligations of the subcontractor.

**2.36 Napa Health Matters Listing.** If CONTRACTOR is an organization providing health, human, or social services of a type recognized for listing on the "Napa Health Matters" website, CONTRACTOR agrees to maintain a current and accurate listing on [www.NapaHealthMatters.org](http://www.NapaHealthMatters.org) for such services.

**2.37 Licensure Status.**

(a) License in Good Standing. If CONTRACTOR is providing services under this Agreement as a state-licensed professional, CONTRACTOR shall ensure that CONTRACTOR's professional license is in good standing with all applicable licensing boards. CONTRACTOR understands COUNTY may terminate the Agreement if CONTRACTOR fails to maintain a current professional license in good standing. For purposes of this Agreement, "license in good standing" means there is no suspension, revocation or probation for any reason (including the failure to pay licensing fees), nor any restriction upon the provisions of the license: including, but not limited to, restrictions placed by a licensing agency upon CONTRACTOR's license pursuant to any consent or settlement agreement or to an administrative decision of the licensing agency.

(b) Expiration of License. In the event that CONTRACTOR's professional license is not renewed on or before its expiration, CONTRACTOR shall neither provide nor be reimbursed for services pursuant to this Agreement commencing the day after license expiration and until CONTRACTOR's professional license is renewed. For purposes of this Agreement, renewal date is the date the licensing board issues a renewed license, and it is irrelevant whether the licensing board subsequently recognizes any lapse in licensure.

**2.38 Code of Ethics.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) has adopted a Code of Ethics. If the Department Director determines that the HHSA Code of Ethics applies to CONTRACTOR's activities under this Agreement, CONTRACTOR shall read, understand, and abide by the Code of Ethics, and CONTRACTOR shall on an annual basis provide written certification to HHSA that CONTRACTOR has received, read, understands, and will abide by HHSA's Code of Ethics. The Code of Ethics may be found online at [www.countyofnapa.org](http://www.countyofnapa.org) or may be obtained from HHSA upon written request.

**2.39 Electronic Billing System.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) operates an electronic billing system program, which seeks reimbursement from the State of California for the delivery of alcohol, drug abuse and mental health services. If CONTRACTOR provides any services related to alcohol, drug abuse or mental health services under the terms of CONTRACTOR's Agreement, CONTRACTOR agrees, upon request of the Director of HHSA or the Director's designee, to implement the COUNTY's sponsored electronic health record system as part of CONTRACTOR's requirement for the delivery of these services.

**2.40 Audit Report Requirements.** If COUNTY has determined that CONTRACTOR is a "subrecipient" (also known as a "pass-through entity") as defined in 2 C.F.R. § 200 et. seq., CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. § 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement. CONTRACTOR shall observe and comply with all applicable Audit Report Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Federal Awards." The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

**EXHIBIT D(F)**  
**Department of Health Care Services Special Terms and Conditions**

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.



## Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	19. Novation Requirements
2. Travel and Per Diem Reimbursement	20. Debarment and Suspension Certification
3. Procurement Rules	21. Smoke-Free Workplace Certification
4. Equipment Ownership / Inventory / Disposition	22. Covenant Against Contingent Fees
5. Subcontract Requirements	23. Payment Withholds
6. Income Restrictions	24. Performance Evaluation
7. Audit and Record Retention	25. Officials Not to Benefit
8. Site Inspection	26. Four-Digit Date Compliance
9. Federal Contract Funds	27. Prohibited Use of State Funds for Software
10. Termination	28. Use of Small, Minority Owned and Women's Businesses
11. Intellectual Property Rights	29. Alien Ineligibility Certification
12. Air or Water Pollution Requirements	30. Union Organizing
13. Prior Approval of Training Seminars, Workshops or Conferences	31. Contract Uniformity (Fringe Benefit Allowability)
14. Confidentiality of Information	32. Suspension or Stop Work Notification
15. Documents, Publications, and Written Reports	33. Public Communications
16. Dispute Resolution Process	34. Compliance with Statutes and Regulations
17. Financial and Compliance Audit Requirements	35. Lobbying Restrictions and Disclosure Certification
18. Human Subjects Use Requirements	

### 1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed,

and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the

Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## **2. Travel and Per Diem Reimbursement**

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new

rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

### 3. Procurement Rules

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

#### a. Equipment/Property definitions

Wherever the term equipment and/or property is used, the following definitions shall apply:

(1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

(1) Equipment/property purchases shall not exceed \$50,000 annually.

To secure equipment/property above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through

DHCS' Purchasing Unit. The cost of equipment/property purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
  - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
  - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
  - (c) Procurements shall be conducted in a manner that provides for all of the following:
    - [1] Avoid purchasing unnecessary or duplicate items.
    - [2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
    - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility

services at rates established for uniform applicability to the general public.

- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### **4. Equipment/Property Ownership / Inventory / Disposition**

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

- a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

- (1) **Reporting of Equipment/Property Receipt** - DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt

to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

(2) **Annual Equipment/Property Inventory** - If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
  - (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
  - (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
  - c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
  - d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
- (1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the

DHCS Program Contract Manager.

- e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.
- f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

g. **Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following



type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

### **Automobile Liability Insurance**

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
  - [3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums;

its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.

- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

## **5. Subcontract Requirements**

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
  - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
  - (2) DHCS may identify the information needed to fulfill this requirement.
  - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
    - (a) A local governmental entity or the federal government,
    - (b) A State college or State university from any State,
    - (c) A Joint Powers Authority,
    - (d) An auxiliary organization of a California State University or a California community college,

- (e) A foundation organized to support the Board of Governors of the California Community Colleges,
  - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
  - (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
  - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address:  
<https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
  - (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

## **6. Income Restrictions**

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

## **7. Audit and Record Retention**

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow

interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)

- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

## **8. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

## **9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

## **10. Termination**

### **a. For Cause**

The State may terminate this Agreement, in whole or in part, and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

**b. For Convenience**

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

**11. Intellectual Property Rights**

**a. Ownership**

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
  - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital

images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

#### **b. Retained Rights / License Rights**

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation,



a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

### **c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (3) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [*Enter Current Year e.g., 2010, etc.*], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

**f. Warranties**

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction,

manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

**i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

**12. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt by law.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

**13. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

**14. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

#### **15. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

#### **16. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief

shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

- (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

## **17. Financial and Compliance Audit Requirements**

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:

- (1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement,*** the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 2 C.F.R. §§ 200.64, 200.70, and 200.90) and expends \$750,000 or more in Federal awards,*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 C.F.R. 200.501 entitled "Audit Requirements". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
    - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
    - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
  - (4) If the Contractor submits to DHCS a report of an audit other than a 2 C.F.R. 200.501 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the



audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.

- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

## **18. Human Subjects Use Requirements**

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

## **19. Novation Requirements**

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

## **20. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any

other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;

- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
  - (5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
  - (6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
  - (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
  - d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
  - d. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

## **21. Smoke-Free Workplace Certification**

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to

children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

## **22. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

## **23. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

**24. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

**25. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

**26. Four-Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**27. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**28. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

## **29. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

## **30. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.

- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

### **31. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:

- (1) Be necessary and reasonable for the performance of the Agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
  - (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
  - (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

**(a) Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

**(b) Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).



**(c) Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

**32. Suspension or Stop Work Notification**

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.
  - (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
  - (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
    - (a) Cancel, extend, or modify the suspension or stop work notification; or
    - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.

- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

### **33. Public Communications**

“Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- A. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices.”

### **34. Compliance with Statutes and Regulations**

- a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.
- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

### **35. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of Title 31, U.S.C.)

- a. Certification and Disclosure Requirements
  - (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of Title 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled “Certification Regarding Lobbying”) that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.

- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled “Standard Form-LLL ‘disclosure of Lobbying Activities’”) if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
  - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**Attachment 1**  
**State of California**  
**Department of Health Care Services**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Napa County

Name of Contractor

Belia Ramos

Printed Name of Person Signing for  
Contractor

230308B

Contract / Grant Number

Signature of Person Signing for  
Contractor

Date

Chair, Board of Supervisors  
Title

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services  
Local Governmental Financing Division  
County-Based Medi-Cal Administrative Activities  
Unit  
1501 Capitol Avenue  
P.O. Box 997436, MS 2628  
Sacramento, CA 95899-7436

DHCS reserves the right to notify the contractor in writing of an alternate submission address.

## Attachment 2

### CERTIFICATION REGARDING LOBBYING

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 0348-0046  
(See reverse for public burden disclosure)

<p>1. Type of Federal Action:</p> <div style="margin-left: 20px;"> <input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance         </div>	<p>2. Status of Federal Action:</p> <div style="margin-left: 20px;"> <input type="checkbox"/> <input type="checkbox"/> a. bid/offer/application  <input type="checkbox"/> <input type="checkbox"/> b. initial award  <input type="checkbox"/> c. post-award         </div>	<p>3. Report Type:</p> <div style="margin-left: 20px;"> <input type="checkbox"/> a. initial filing  <input type="checkbox"/> b. material change         </div> <p style="margin-left: 40px;">For Material Change Only:</p> <p style="margin-left: 40px;">Year _____ quarter _____</p> <p style="margin-left: 40px;">date of last report _____.</p>
<p>4. Name and Address of Reporting Entity:</p> <div style="margin-left: 20px;"> <input type="checkbox"/> <input type="checkbox"/> Prime      <input type="checkbox"/> <input type="checkbox"/> Subawardee  <div style="margin-left: 100px;">Tier ____, if known:</div> </div> <p style="margin-left: 20px; margin-top: 20px;">Congressional District, If known:</p>		<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p>     
<p>6. Federal Department/Agency</p>   	<p>7. Federal Program Name/Description:</p>  <p>CDFA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>  	<p>9. Award Amount, if known:</p> <p style="margin-left: 40px;">\$</p>	

10.a. Name and Address of Lobbying Registrant <i>(If individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from 10a. (Last name, First name, MI):</i>		
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than \$100,000 for each such failure.	Signature:		
	Print Name:		
	Title:		
	Telephone No.: <div style="text-align: right;">Date:</div>		
<b>Federal Use Only</b>		Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)	

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the



application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## **EXHIBIT E**

### **CONTRACTOR’S PRIVACY AND SECURITY COMMITMENTS**

This Exhibit shall constitute the “Agreement” between **PARENTS CHILD ADVOCACY NETWORK**, (“CONTRACTOR”) and Napa County, and applies to the functions Contractor will perform on behalf of Napa County (collectively, “Services”), that are identified in the Master Agreement.

1. **Purpose.** This Agreement is intended to ensure that CONTRACTOR will establish and implement appropriate privacy and security safeguards with respect to Napa County Confidential Information. Napa County Confidential Information includes:
  - Personally Identifiable Information: such as name, date of birth, address, phone number, Social Security Number, California Identification Number, Driver’s License Number, email address, ip address, and any other data that could reasonably identify an individual; pertaining to clients or employees of Napa County; and
  - Medical Information: any individually identifiable information, in electronic or physical form, pertaining to the past, present or future medical condition of clients or employees of Napa County
2. **Permitted Uses and Disclosures.**
  - (a) Except as otherwise limited in this Agreement, CONTRACTOR may use or disclose Napa County Confidential Information to perform functions, activities, or services for, or on behalf of Napa County for the purposes specified in Attachment A to this Exhibit, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate California Civil Code Sections 56-56.37, collectively known as the Confidentiality of Medical Information Act (CMIA), and/or any other relevant state and federal privacy laws and regulations. CONTRACTOR must also make reasonable efforts to limit the use and disclosure of Napa County Confidential Information to the Minimum Necessary to accomplish the intended purpose of the use, disclosure, or request.
  - (b) Except as otherwise limited in this Agreement, CONTRACTOR may use Napa County Confidential Information for the proper management and administration of the CONTRACTOR, or to carry out the legal responsibilities of CONTRACTOR.
  - (c) Except as otherwise limited in this Agreement, CONTRACTOR may disclose Napa County Confidential Information for the proper management and administration of the CONTRACTOR provided that disclosures are required by law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.
  - (d) CONTRACTOR may use Napa County Confidential Information to report violations of law to appropriate Federal and State authorities.

(e) CONTRACTOR may not use or disclose Napa County Confidential Information in a manner that would violate CMIA (or other relevant state and federal privacy laws and regulations) if done by Napa County, except for the specific uses and disclosures set forth herein.

**3. Appropriate Safeguards.**

(a) CONTRACTOR agrees to use appropriate safeguards to prevent the use or disclosure of Napa County Confidential Information other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Napa County Confidential Information that is created, received, maintained or transmitted on behalf of Napa County and limit its use and disclosure to the minimum necessary.

(b) Safeguarding Electronic Napa County Confidential Information. CONTRACTOR must secure all Electronic Napa County Confidential Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with the National Institute of Standards Technology (NIST) Standards and Federal Information Processing Standards (FIPS) as applicable. Should CONTRACTOR fail to comply with this provision, it agrees to hold harmless, defend at its own expense and indemnify Napa County in accordance with the terms of Section 6 of the Agreement, "Indemnification".

(c) Destruction of Napa County Confidential Information on paper, film, or other hard copy media must involve either shredding or otherwise destroying it so that it cannot be read or reconstructed.

(d) Should any employee or subcontractor of CONTRACTOR have direct, authorized access to computer systems of Napa County that contain Napa County Confidential Information, CONTRACTOR shall immediately notify Napa County of any change of such personnel (e.g. employee or subcontractor termination, or change in assignment where such access is no longer necessary) in order for Napa County to disable the previously authorized access.

**4. Reporting Unauthorized Uses and Disclosures.**

(a) CONTRACTOR agrees to notify Napa County of any access, use or disclosure of Napa County Confidential Information not permitted or provided for by the Agreement of which it becomes aware. Such notification will be made immediately after discovery by telephone call at 707.253.4523, plus e-mail at Privacy.Officer@countyofnapa.org, and will include, to the extent possible, the identification of each Individual whose Napa County Confidential Information has been, or is reasonably believed by the CONTRACTOR to have been, accessed, acquired, used or disclosed, a description of the Napa County Confidential Information involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by CONTRACTOR.

(b) A breach or unauthorized access, use, or disclosure shall be treated as discovered by CONTRACTOR on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the CONTRACTOR or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of CONTRACTOR

(c) In meeting its obligations under this section, it is understood that CONTRACTOR is not acting as the Napa County's agent. In performance of the work, duties, and obligations and in

the exercise of the rights granted under this Agreement, it is understood and agreed that CONTRACTOR is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.

**5. Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Napa County Confidential Information**

(a) CONTRACTOR agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Napa County Confidential Information by CONTRACTOR or its employees, officers, subcontractors, agents, or other representatives.

(b) Following a breach, security incident, or any unauthorized access, use or disclosure of Napa County Confidential Information, CONTRACTOR agrees to take any and all corrective action(s) necessary to prevent recurrence, to document any such action(s), and to make this documentation available to Napa County.

(c) Except as required by law, CONTRACTOR agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Napa County Confidential Information without obtaining Napa County's prior written consent. Napa County hereby reserves the sole right to determine whether and how such notice is to be provided to any Individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice. When applicable law requires the breach be reported to a federal or state agency or that notice be given to media outlets, CONTRACTOR shall cooperate with and coordinate with Napa County to ensure such reporting is in compliance with applicable law and to prevent duplicate reporting, and to determine responsibilities for reporting.

**6. Indemnification.**

To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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.

**7. Individuals' Rights.**

(a) CONTRACTOR agrees to provide access, at the request of Napa County, and in the

time and manner designated by the Napa County, to Napa County Confidential Information to Napa County or, as directed by Napa County, to an Individual.

**8. Agents and Subcontractors of CONTRACTOR.**

(a) CONTRACTOR agrees to enter into written agreements with any agent, subcontractor or vendor, to whom it provides Napa County Confidential Information received from Napa County or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa County, that impose the same restrictions, conditions and requirements that apply through this Agreement to CONTRACTOR with respect to such information, including the requirement to immediately notify the CONTRACTOR of any instances of any breach, security incident, intrusion, or unauthorized access to or use or disclosure of Napa County Confidential Information of which it becomes aware. Upon request, CONTRACTOR shall provide copies of such agreements to Napa County.

(b) CONTRACTOR shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

**9. Audit, Inspection, and Enforcement.**

(a) CONTRACTOR agrees to make internal practices, books, and records relating to the use and disclosure of Napa County Confidential Information received from Napa County or created, received, maintained, or transmitted by CONTRACTOR on behalf of Napa County, available to any state or federal agency, for the purposes of determining compliance with applicable state and federal privacy laws and regulations.

(b) With reasonable notice, Napa County and its authorized agents or contractors may audit and/or examine CONTRACTOR's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Napa County Confidential Information to determine compliance with the terms of this Agreement. CONTRACTOR shall promptly correct any violation of this Agreement found by Napa County and shall certify in writing that the correction has been made. CONTRACTOR's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Napa County's enforcement rights under this Agreement.

**10. Permissible Requests by Napa County.** Napa County shall not request that CONTRACTOR use or disclose Protected Napa County Confidential Information in any manner that would not be permissible under the relevant state and federal privacy laws and regulations if done by Napa County.

**11. Term and Termination.**

(a) The terms of this Agreement shall remain in effect for the duration of all services provided by CONTRACTOR under the Master Agreement and for so long as CONTRACTOR remains in possession of any Napa County Confidential Information received from Napa County, or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa County unless Napa County has agreed in accordance with this Section 11 that it is not feasible to return or destroy all Napa County Confidential Protected Information.

(b) Upon termination of the Master Agreement, CONTRACTOR shall recover any Napa County Confidential Information relating to the Master Agreement and this Agreement in its possession and in the possession of its subcontractors, agents or representatives. CONTRACTOR shall return to Napa County, or destroy with the consent of Napa County, all such Napa County Confidential Information, in any form, in its possession and shall retain no copies.

(c) If CONTRACTOR believes it is not feasible to return or destroy the Napa County Confidential Information, CONTRACTOR shall so notify Napa County in writing. The notification shall include: (1) a statement that the CONTRACTOR has determined that it is not feasible to return or destroy the Napa County Confidential Information in its possession, and (2) the specific reasons for such determination. CONTRACTOR may retain only that Napa County Confidential Information which is necessary for CONTRACTOR to continue its proper management and administration or to carry out its legal responsibilities. If Napa County agrees in its sole discretion that CONTRACTOR cannot feasibly return or destroy the Napa County Confidential Information, CONTRACTOR shall ensure that any and all protections, requirements and restrictions contained in the Master Agreement and this Agreement shall be extended to any Napa County Confidential Information for so long as CONTRACTOR maintains such Napa County Confidential Information, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the Napa County Confidential Information infeasible.

(d) Napa County may immediately terminate the Master Agreement if it determines that CONTRACTOR has violated a material term of this Agreement.

(e) Survival. The obligations of CONTRACTOR under this Section 11 shall survive this Agreement.

12. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Napa County and CONTRACTOR to comply with the requirements of relevant state and federal privacy laws and regulations

13. **Notices.**

(a) 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 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.

(b) Any mailed notice, demand, request, consent, approval or communication that Napa County desires to give to CONTRACTOR shall be addressed to CONTRACTOR at the mailing address set forth in the Master Agreement.

(c) Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to Napa County shall be addressed to Napa County at the following address:

Napa County Privacy Officer  
2751 Napa Valley Corporate Drive  
Napa, CA 94558  
707.253.4715

(d) For purposes of subparagraphs (b) and (c) above, either party may change its address by notifying the other party of the change of address.

**14. Lost Revenues; Penalties/Fines.**

(a) Penalties/Fines for Failure to Comply with relevant privacy laws and regulations. CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with the obligations imposed by relevant state and federal privacy laws and regulations.

(b) Penalties/Fines (other). CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines, which may be assessed under a Federal or State False Claims Act provision.

**NAPA COUNTY AGREEMENT NO. 230310B  
PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT (the "Agreement")** is made and entered into as of the 1<sup>st</sup> of July 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and **UP VALLEY FAMILY CENTERS**, a California nonprofit corporation, whose mailing address is 1440 Spring Street, St. Helena, CA 94574, hereinafter referred to as "CONTRACTOR." COUNTY and CONTRACTOR may be referred to below collectively as "Parties" and individually as "Party."

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services in order for CONTRACTOR to provide assistance with outreach, enrollment, retention, and utilization of Medi-Cal for all potentially eligible children/families throughout Napa County; and CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein;

**TERMS**

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the Terms and Conditions and their own Exhibits, which together are attached hereto and incorporated by this reference as though set forth in full herein. The Section numbers of any portion of this Agreement may at times be referred to either as "Sections" or "Paragraphs" interchangeably.

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

<b>NAPA COUNTY</b> , a political subdivision of the State of California	<b>CONTRACTOR</b>
By _____ <b>BELIA RAMOS, Chair of the Board of Supervisors</b>	 JENNY O'CONN, Executive Director
ATTEST: NEHA HOSKINS, Clerk of the Board	
By: _____	
DATE APPROVED BY THE BOARD: _____	
Processed by: _____ Deputy	

Maximum Amount of this Agreement: \$ 11,775	APPROVED AS TO FORM BY NAPA COUNTY COUNSEL
Term Expires: June 30, 2023	
Automatic renewal of term does not apply	By: <i>Corey S. Utsurogi</i> Date: 2/22/23



## **TERMS AND CONDITIONS OF NAPA COUNTY AGREEMENT NO. 230310B**

### **SECTION 1. Contract Administration**

For purposes of this Agreement, the following shall apply:

- 1.1 “Department” shall mean: Health and Human Services Agency
- 1.2 “Director” shall mean the person elected or appointed to the chief management position of the Department.
- 1.3 “Contract Administrator” shall be: Contracts Analyst or such other person as designated by the Department Director. The address for COUNTY’s Contract Administrator shall be: 2751 Napa Valley Corporate Drive, Building B, 2<sup>nd</sup> Floor, Napa, CA 94559.
- 1.4 The Program Manager for COUNTY shall be: Christine Wu, M.D., Public Health Officer
- 1.5 The Contract Contact Person for CONTRACTOR shall be: Jenny Ocon, 1440 Spring Street, St. Helena, CA 94559
- 1.6 CONTRACTOR is a ☐ sole proprietor ☐ partnership ☒ corporation ☐ public agency ☐ other (specify) .
- 1.7 The source of funding for this Agreement shall be: Health and Human Services Agency General Fund, Mental Health Services Agreement (MHSA), and Master Services Agreement (MSA)
- 1.8 In entering into this Agreement, CONTRACTOR acknowledges and agrees to abide by the applicable terms of the following COUNTY-entity agreements, and as they may amended from time to time: Department of Health Care Services- Napa County Agreement No. 230296B

These agreements are on file with the Napa County Clerk of the Board of Supervisors and may be accessed at <https://www.countyofnapa.org/DocumentCenter/> under “Departments/Health and Human Services/Administration/Contracts and Administration Documents” (See also Section 2, Paragraphs 2.15(b)(2) and 2.35)

### **SECTION 2. General Terms and Conditions.**

Attached hereto and incorporated by this reference as Exhibit C is “SECTION 2. General Terms and Conditions – Version 12”, which shall be referred to herein as the “General Terms and Conditions” and which shall apply to this Agreement unless otherwise specifically limited or excluded by more specific provisions.

Due to changes in the laws, future versions of General Terms and Conditions shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR, effective within such time period as is designated in Paragraph 2.10 (Other Termination) plus 15 days or as mandated by local, state or federal laws or regulations, whichever date is sooner.

### **SECTION 3. Specific Terms and Conditions.**

The following Specific Terms and Conditions provide additional terms and conditions or modify

the General Terms and Conditions of this Agreement. A Specific Term and Condition shall control if a conflict exists with a General Term and Condition.

3.1 The following Specific Terms and Conditions apply when CONTRACTOR's obligations under this Agreement involve the following as designated by an "X":

☒ (a) Contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (General Terms and Conditions Paragraph 2.8(b) applies).

☐ (b) Construction or pre-construction related services (General Terms and Conditions Paragraph 2.19(e) applies).

☐ (c) Work on or the supplying of any software systems or equipment containing or suspected of containing clocks or embedded chips functioning as or dependent upon the use of clocks or calendars (General Terms and Conditions Paragraph 2.29 applies).

☒ (d) Services covered by a Federal Health Care Program (General Terms and Conditions Paragraph 2.31 applies).

☐ (e) Services covered by a State Medi-Cal Specialty Mental Health Program (General Terms and Conditions Paragraph 2.32 applies).

☐ (f) Mental Health Activities (General Terms and Conditions Paragraph 2.33 applies).

☒ (g) Services involving the receipt, use or disclosure of protected health information: A determination has been made by COUNTY's Privacy Officer that CONTRACTOR shall not provide services under this Agreement as a Business Associate to COUNTY. General Terms and Conditions Paragraph 2.34(b) does not apply to this Agreement.

☐ (h) Services provided under COUNTY's Managed Care Provider Program, which shall be subject to all the terms and conditions set forth in the Napa County Mental Health Managed Care Provider Manual, herein incorporated by reference and on file with the Clerk of the Napa County Board of Supervisors.

☐ (i) Services as a provider for which CONTRACTOR has submitted a "Provider Application," which CONTRACTOR warrants that the information contained in said application is accurate and understands that any inaccuracies may be grounds for termination of this Agreement by COUNTY. CONTRACTOR authorizes COUNTY to consult with third parties, including but not limited, to the National Practitioner Data Bank or other applicable licensing boards.

☐ (j) Services involving the use or disclosure of personally identifiable information that are performed as a subcontractor under COUNTY's contract with another entity when that contract requires COUNTY to include its applicable terms in COUNTY's subcontracts. (General Terms and Conditions Paragraph 2.35 applies.)

☐ (k) Services determined by the Department Director to be covered by Department's Code of Ethics. (General Terms and Conditions Paragraph 2.38 applies.) CONTRACTOR understands that, by entering into this Agreement, CONTRACTOR acknowledges that CONTRACTOR has received, read, and understands the Code of Ethics, and agrees to abide by the terms therein as applicable to CONTRACTOR's activities under this Agreement. Department shall provide CONTRACTOR with copies of Department's Code of Ethics prior to

the execution of the Agreement. CONTRACTOR further understands that on an annual basis CONTRACTOR shall provide written certification to Department that CONTRACTOR has received, read, understands, and will abide by Department's Code of Ethics.

[ X ] (l) Services have been determined by the Department Director, or may be determined at a later date, that CONTRACTOR is a subrecipient or pass-through entity and is therefore required to meet all of the requirements found in 2 C.F.R. § 200.331. (General Terms and Conditions 2.40 applies.) COUNTY shall notify CONTRACTOR in accordance with General Terms and Conditions Paragraph 2.13 (Notices), of any change in designation as a subrecipient, and any subsequent increase to the amount of Federal funding CONTRACTOR shall receive under the terms of this Agreement. CONTRACTOR shall be bound thereby upon receipt of notice.

### 3.2 Source Funding.

(a) Change in Source Funding. Paragraph 1.7 may be unilaterally modified by COUNTY upon written notice to CONTRACTOR who shall be bound thereby immediately upon receipt. The Department Director is delegated the authority to modify Paragraph 1.7 and provide such written notice, but may exercise such authority only after consultation with, and concurrence of, the Napa County Counsel and the Napa County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Napa County Board of Supervisors to modify Paragraph 1.7.

(b) Amendment to Source Funding Agreement. If Paragraph 1.7 identifies a funding source agreement, then any amendment to the funding source agreement shall be automatically incorporated and made a part of this Agreement, effective in accordance with the amended funding source agreement. As a subcontractor of COUNTY, CONTRACTOR shall be bound by the applicable terms of the funding source agreement, and any amendments thereto.

3.3 Statement of Economic Interests. By authorizing its Chair to execute this Agreement on its behalf, COUNTY's Board of Supervisors hereby determines in writing on behalf of COUNTY that CONTRACTOR has been hired to perform a range of duties so limited in scope as to not be required to comply with the disclosure obligations set forth in Paragraph 2.23(b).

3.4 Term of Agreement. Section 2.1 (b) of the General Terms and Conditions does not apply to this Agreement. The term of this Agreement shall commence on the date written on page 1 and shall expire of **June 30, 2023**, unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Termination for Convenience) or 2.23 (a) (Covenant of No Undisclosed Conflict). The obligations of the Parties under Paragraphs 2.7 (Insurance) and 2.8 (Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes) and 2.21 (Access to Records/Retention).

3.5 COUNTY delegates its authority to the Director of the Health and Human Services Agency to approve future amendments to Exhibits A and B, attached to this Agreement, provided that any such amendment does not materially alter the nature of the services to be provided or increase the maximum compensation available under this Agreement.

#### **SECTION 4. Incorporated Documents.**

The following documents are incorporated herein by this reference and attached hereto and labeled as the following Exhibit letters:

Exhibit A: Scope of Work

Exhibit B: Compensation and Financial Reporting

Exhibit C: "Section 2, General Terms and Conditions, Version 12"

Exhibit D(F): Department of Health Care Services "Special Terms and Conditions"

Exhibit E: Contractor's Privacy and Security Commitments

## **EXHIBIT A**

### **SCOPE OF WORK**

#### **MEDI-CAL ADMINISTRATIVE ACTIVITIES**

Medi-Cal Administrative Activities, or MAA, are activities performed that are necessary for the proper and efficient administration of the Medi-Cal State Plan. The Local Government Agency (LGA), or the designated entity responsible for administering MAA locally, is Napa County Health and Human Services Agency (HHSA). The LGA may subcontract with community-based organizations to perform MAA.

In FY 13-14 Napa County HHSA launched a community-wide effort to outreach and enroll uninsured and potentially eligible residents in Medi-Cal coverage and to link them to needed health/behavioral health services. The essential component of this effort is subcontracting with qualified and interested CBOs to link Medi-Cal eligible and potentially eligible individuals with Medi-Cal covered services as well as assist in the Medi-Cal application process. Currently, many CBOs are the first place low-income individuals and families go for services including: Medi-Cal and Medi-Cal covered service information, referral and facilitation of the Medi-Cal application. Napa County recognizes the unique relationship that CBOs have with the Medi-Cal eligible population and wishes to maximize this relationship in assuring the availability and accessibility of Medi-Cal services.

Eligibility for Medi-Cal was expanded under the Affordable Care Act and more residents are eligible for Medi-Cal. This project intends to have a positive, proactive impact in reaching the uninsured by leveraging the effectiveness that CBOs have in linking people to the appropriate services within the county. The project also intends to ensure there is a greater chance that anyone who needs health/behavioral health care successfully connects and engages in those services.

As a participant in this project, CONTRACTOR is expected to carry out the duties specified below to ensure to the greatest extent practicable that: Uninsured Napa residents who are eligible for Medi-Cal coverage receive it and access the care they need.

#### **Type of MAA Activities to be performed:**

- 1) **Allowable Medi-Cal Outreach**: This activity may consist of discrete campaigns or may be an ongoing activity. This activity is directed to groups or individuals targeted to two goals:
  - Bringing potentially eligible people into the Medi-Cal system for the purpose of determining Medi-Cal eligibility; and
  - Bringing Medi-Cal eligible people into Medi-Cal services.Outreach may consist of discrete campaigns or may be an ongoing activity, such as: sending teams of employees into the community to contact homeless alcoholics or drug abusers; establishing a telephone or walk-in service for referring persons to Medi-Cal services or eligibility offices; operating a drop-in community center for

underserved populations, such as minority teenagers where Medi-Cal eligibility and service information is disseminated.

The following activities describe how outreach shall be performed:

- a. Outreach campaigns directed to the entire population to encourage potential Medi-Cal eligibles to apply for Medi-Cal, These campaigns are Medi-Cal only eligibility outreach campaigns.
- b. Outreach campaigns directed toward bringing Medi-Cal eligibles into Medi-Cal covered services. In such campaigns, the language should clearly indicate that the message is directed to only persons eligible for Medi-Cal, and not the general public. These campaigns are service campaigns, targeted to specific Medi-Cal services, such as Early and Periodic Screening, Diagnosis and Treatment (EPSDT).
- c. Informing children and their families on how to effectively access, use and maintain participation in all health resources under the Medi-Cal program.
- d. Informing individuals or the general public about the benefits and services that the Medi-Cal program offers and encouraging and referring them to apply for Medi-Cal benefits.
- e. Providing initial referral assistance to families and individuals to Medi-Cal services.

Note: A health education program or campaign may be allowable as a Medi-Cal administrative cost if it is targeted specifically to Medi-Cal services and for Medi-Cal eligible individuals, such as an educational campaign on immunization addressed to parents of Medi-Cal children.

- 2) Facilitating Medi-Cal Application (Eligibility Intake and Renewal):** Activities are those that facilitate the completion of the Medi-Cal application and renewal process and ensuring linkage with the Self Sufficiency Services Division for eligibility determinations. They include:
- a. Explain Medi-Cal eligibility rules and the Medi-Cal eligibility process to prospective applicants; assist an applicant to fill out a Medi-Cal eligibility application; gather information related to the application and eligibility determination from a client, including resource information and third party liability information, as a prelude to submitting a formal Medi-Cal application to the Self Sufficiency Services Division of Health and Human Services; and/or provide necessary forms and packaging all forms in preparation for the Medi-Cal eligibility determination.
  - b. Assist the beneficiary in completing necessary application for redetermination, gather information related to the application and assist in submitting the

application to the Self Sufficiency Services and Comprehensive Services for Older Adults Divisions of Health and Human Services.

- c. These activities do not include the eligibility determination or redetermination itself.

### **Performance Targets**

CONTRACTOR shall participate in at least 10 outreach events.

CONTRACTOR shall outreach to at least 1000 individuals, providing information about Medi-Cal coverage and Medi-Cal covered services.

CONTRACTOR shall refer and successfully link at least 300 individuals to Medi-Cal coverage and/or Medi-Cal covered services.

CONTRACTOR shall facilitate at least 200 Medi-Cal applications through to the point of submission for eligibility determinations and re-determinations to the Self Sufficiency Services Division of Health and Human Services.

### **Quarterly Reporting**

CONTRACTOR shall provide quarterly reports as indicated in the scheduled included in Exhibit B, "COMPENSATION." Reports will include documentation to support the number and type of outreach events (e.g. flyers, brochures, dates and announcements of events) and the number of individuals and/or families reached through ongoing outreach efforts. The reports will also include documentation to support the number of individuals and/or families assisted with application or re-determination for Medi-Cal (e.g. client count of applications ) and the number of Medi-Cal beneficiaries linked to Medi-Cal services (e.g. client count). Finally, the reports will include certification that costs incurred were directly related to the provision of MAA allowable activities.

### **Compliance with MAA Requirements**

CONTRACTOR shall comply with MAA requirements such as completing mandated covered contractor provisions and providing documentation that the organization is meeting requirements of the MAA claiming plan for which they are included such as submitting to HHSA the job descriptions for the staff performing MAA activities.

CONTRACTOR understands that the MAA activities and expenditures performed by CONTRACTOR are subject to the requirements set forth in the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link: [https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf) CONTRACTOR shall comply with the requirements of the DHCS MAA Operational Plan.

CONTRACTOR understands that the information presented to COUNTY by CONTRACTOR under this Agreement shall be used for filing a claim with the Federal Government for federal funds, and that any knowing misrepresentation constitutes a violation of the Federal False Claims Act.



**EXHIBIT B**  
**COMPENSATION**

**MEDI-CAL ADMINISTRATIVE ACTIVITIES**

COUNTY shall reimburse CONTRACTOR for Medi-Cal Administrative Activities (MAA) described in Exhibit A as follows:

**1. Amount**

CONTRACTOR shall be reimbursed up to a maximum of \$11,775 for the term of the Agreement. Funding to the CONTRACTOR shall be contingent upon availability of funds for source of certified public expenditure. CONTRACTOR shall have the flexibility of transferring expenditure amounts between line items (activities) in the Program Budget, provided that no transfer shall exceed twenty percent (20%) of the line from which transferred. Any transfer in excess of 20% per line must be approved in writing in advance by COUNTY Health Director or designee.

- CONTRACTOR shall be reimbursed a maximum of \$9,820 for Medi-Cal Outreach as described in Exhibit A.
- CONTRACTOR shall be reimbursed a maximum of \$1,955 for Facilitating the Medi-Cal Application as described in Exhibit A.

CONTRACTOR shall be able to verify that expenditures related to its provision of MAA activities represent accurately identifiable and eligible costs, and that CONTRACTOR has excluded any non-claimable non-salary costs in compliance with the Department of Health Care Services (DHCS) County-Based MAA Program Operational Plan (approved July 1, 2017), which is incorporated herein by reference and can be found at the following link:

[https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM\\_Imp\\_Plan/CMAA-TCM-Operational\\_Plan-2018.pdf](https://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/CMAA/CMAA-TCM_Imp_Plan/CMAA-TCM-Operational_Plan-2018.pdf)

**2. Certified Public Expenditure**

This Renewal Agreement is funded by County General funds, Tobacco Master Settlement Agreement funds that CONTRACTOR was awarded under Napa County Grant Agreement No. 230078B and No. 230073B, and Mental Health Services Act funds that CONTRACTOR was awarded under Napa County Grant Agreement No. 210362B. Services are also funded by an agreement with Local Public Entity, the City of Calistoga. The expenditure of these funds shall be certified by the City of Calistoga on a quarterly basis and submitted to the COUNTY with quarterly invoices. CONTRACTOR may not use the funds received under the aforementioned Agreements to claim reimbursement for any other Federal program.

<b>ACTIVITY</b>	<b>Contract #230078B</b>	<b>Contract #230073B</b>	<b>Contract #210362B</b>	<b>Agreement with the City of Calistoga</b>	<b>This Agreement</b>
Medi-Cal Outreach	\$5,275	\$4,040	\$857	\$8,636	\$9,820
Medi-Cal Application Facilitation	\$0	\$0	\$0	\$1,343	\$1,955

### **3. Method of Payment**

CONTRACTOR must submit an invoice or claim form to the County Fiscal Analyst, not to exceed the contract maximum. Actual annual reimbursement shall be based on CONTRACTOR's actual cost, not to exceed the annual maximum operating budget amount in each Fiscal Year. The quarterly reports and invoices due, as noted below, shall identify the activities conducted and expenditures made during the previous quarter ending on the last date of the calendar month prior to the report due date. Payment will be made following receipt of the report and invoice. COUNTY shall not release payments until CONTRACTOR has submitted reports for the previous quarter.

<b>CONTRACT PERIOD</b>	<b>REPORT/INVOICE DUE DATE</b>
July 1, 2022 – September 30, 2022	Upon Contract Renewal
October 1, 2022 – December 31, 2022	January 31, 2023
January 1, 2023– March 31, 2023	April 30, 2023
April 1, 2023– June 30, 2023	July 15, 2023

CONTRACTOR shall, on each quarterly invoice, certify that the expenditures incurred represent accurate identifiable and eligible costs, and that CONTRACTOR's expenditures were made on eligible MAA claimable activities, as set forth in Exhibit A of this Agreement. CONTRACTOR's expenditures incurred for each of the two MAA activities shall be separately identified. CONTRACTOR shall provide certification in a manner, and on an invoice, provided by COUNTY.

### **4. Contract Monitoring**

COUNTY will meet with CONTRACTOR during the initial months/quarters of this agreement to review documentation that supports MAA invoicing and to provide technical assistance as needed. CONTRACTOR shall meet at least once a year with COUNTY thereafter to coordinate and review fulfillments of contract terms, and address any potential impediments to the fulfillment of the terms of this agreement. Such review shall extend to an examination of type and quantity of services provided, interagency coordination, and any other issues pertinent to this agreement.

- CONTRACTOR is responsible for maintaining all documentation required for monitoring.
- CONTRACTOR shall request technical assistance from the COUNTY regarding elements of the contract with which they need assistance. COUNTY shall consider any such request and shall provide technical assistance to the CONTRACTOR if the COUNTY has the capacity and capability to do so. CONTRACTOR maintains responsibility for ensuring that its services and activities are in compliance with applicable regulations.
- COUNTY normally shall provide 30-day notice of the site visit to the CONTRACTOR and shall specify the documentation that will need to be available at the time of the visit.
- Under normal circumstances, the visit may require the review of the following documents: records that delineate the MAA activities from other activities, support full expenditure of funding and that expenditures were directly related to MAA activities, demonstrate covered contractor screening provisions have been met, and any other documentation the COUNTY may request to be reviewed to ensure CONTRACTOR meeting state and federal requirements delegated through the contract.
- COUNTY shall provide CONTRACTOR with the opportunity to respond to the COUNTY'S written report of the site visit prior to the report becoming final.
- If the final report identifies material variations between the CONTRACTOR'S activities and the requirements of the contract, the COUNTY may require the CONTRACTOR to prepare a written plan of action to address those variations.

**5. Program Name and Number for Federal Claiming**

Title 31- Money and Finance, Subtitle V – General Assistance Administration, Chapter 75 - Requirements for Single Audits, Section 7502 requires each pass-through entity provide the sub recipient program names and any identifying numbers from which such assistance is derived. The Catalog of Federal Domestic Assistance (CFDA) number for this federal program is 93.778, Medical Assistance Program.

**6. Disallowed Costs**

COUNTY shall withhold any payments for services for which documentation of activities and expenditures is not sufficient to claim the Federal Financial share of MAA.

CONTRACTOR shall reimburse COUNTY for all overpayments identified by CONTRACTOR, COUNTY and/or State or Federal oversight agencies as an audit exception. CONTRACTOR shall make any repayment based on audit exception(s) upon discovery of said exception(s). If reimbursement is required, CONTRACTOR shall reimburse COUNTY within 60 days of identification.

## **EXHIBIT C**

### **SECTION 2. GENERAL TERMS AND CONDITIONS --VERSION 12**

#### **2.1 Term of the Agreement.**

(a) Term. The term of this Agreement shall commence on the date first written on page 1 and shall expire on the expiration date set forth on page 1 unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Other Termination) or 2.23(a) (Covenant of No Undisclosed Conflict).

(b) Automatic Renewal. The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the same terms and conditions, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30. COUNTY authorizes the Department Director to determine whether this Agreement shall not be renewed and to provide the written notice of the intention to not renew on behalf of COUNTY.

(c) Obligations Extending Beyond Term. The obligations of the parties under Paragraphs 2.7 (Insurance) and 2.8 (Hold Harmless/Defense/Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes), 2.21 (Access to Records/Retention), 2.31 (Compliance with Federal Health Care Program Requirements), 2.32 (Compliance with State Medi-Cal Specialty Mental Health Services Requirements), and 2.33 (Compliance with Mental Health Activities Requirements). To the extent the paragraphs referenced in this Paragraph 2.1 may be modified by Specific Terms and Conditions contained in SECTION 3 of this Agreement, the modifications shall also continue after the expiration date or early termination.

**2.2 Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A."

#### **2.3 Compensation.**

(a) Compensation/Maximum. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates and/or in the amount(s) set forth in Exhibit "B". The maximum payment for the initial term of this Agreement, and the successive maximum payments for each subsequent automatically renewed term, shall each be that maximum amount set forth on page 1; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

(b) Advance Funding.

1. Use of Funds. To the extent this Agreement may permit advance funding of services and expenses, use of funds delineated in this Agreement is limited to the term of performance unless otherwise modified in accordance with Paragraph 2.17

(Amendment/Modification). COUNTY may at its discretion recapture funds obligated under the authority of this Agreement if expenditure plans are not being met.

2. Reversion of Funds. If funds awarded to CONTRACTOR have not been expended in accordance with this Agreement and COUNTY has determined after consultation with CONTRACTOR that funds will not be spent in a timely manner, such funds will revert to COUNTY for that reason and to the extent permitted by and in a manner consistent with federal and state law, regulations, and policies.

(c) Availability of Funds. It is mutually understood that, for the benefit of both parties, this Agreement may have been written before ascertaining the availability of congressional and/or state legislative appropriation of funds in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made. If funding of this Agreement is dependent upon the availability of congressional and legislative appropriation of funds, then:

1. This Agreement shall be deemed automatically terminated if the Congress and and/or the State Legislature do not appropriate funds needed for this Agreement;

2. At COUNTY's discretion, this Agreement may be deemed automatically terminated or this Agreement may be modified or amended in accordance with Paragraph 2.17 (Amendment/Modifications), if the Congress and/or State Legislature do not appropriate sufficient funds needed for this Agreement; and

3. This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or State Legislature, or any statute enacted by the Congress or State Legislature, that may in any manner affect the provisions, terms, or funding of this Agreement.

(d) COUNTY may withhold any compensation due CONTRACTOR as an offset for any revenues lost arising from an act or omission in billing or documentation practices by CONTRACTOR. CONTRACTOR shall make COUNTY whole for any such lost revenues.

#### **2.4 Method of Payment.**

(a) Invoices. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR'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 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. Where expense reimbursement is sought, the invoice shall describe the nature and cost of the expense, the task(s) if any to which the expense was related, and the date incurred. CONTRACTOR shall submit invoices not more often than monthly to the Contract Administrator. After review and approval as to form and content, the invoice shall be submitted to the Napa County Auditor no later than fifteen (15) calendar days following receipt.

(b) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Contract Administrator upon request during the term of this Agreement in a form 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 CONTRACTOR within the State of California.

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

**2.6 Specific Performance.** It is agreed that CONTRACTOR, including the agents, employees and authorized subcontractors of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

**2.7. Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability Insurance. CONTRACTOR 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:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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 CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. 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 of Coverage. All insurance coverages referenced in 2.7(b), 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 CONTRACTOR with the Health and Human Services Agency prior to commencement of performance of any of CONTRACTOR's duties.

(1) 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, other termination, or material change, 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 2.7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 2.7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR 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 CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR 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 2.7.

(f) Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve CONTRACTOR, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

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

(a) In General. To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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) Obligations Relating to Criminal Background Checks.**

1. If CONTRACTOR's obligations under this Agreement involve contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (hereafter in this paragraph referred to as "third persons"), then CONTRACTOR shall investigate by all lawful means, including but not limited to obtaining information from official government sources as the result of taking fingerprints, the criminal background of each and all of its officers, agents, employees, interns, and volunteers, however denominated (hereafter, "employees"), who



will have direct personal contact with, or provide direct personal services to, third persons in the performance of this contract. Depending upon the information acquired by its investigation, CONTRACTOR shall not allow any of its employees to have personal contact with, or provide direct personal services to, third persons where it may reasonably be concluded as a result of its investigation that an employee should not have such contact or provide such service. Nothing herein requires CONTRACTOR to investigate the criminal background of an employee who is currently licensed by the State of California and whose license requires a criminal background investigation.

2. Notwithstanding anything to the contrary in (a) or (c), CONTRACTOR shall defend and indemnify COUNTY and its officers, agents and employees from any and all claims, actions, settlements or judgments of whatever kind which may arise from the failure of CONTRACTOR to conduct the criminal background investigation described in this subparagraph (b) or from the failure of CONTRACTOR after the investigation to reasonably disallow an employee from having such personal contact or providing such direct personal service.

(c) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

## **2.9 Termination for Cause.**

(a) 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 written notice to the defaulting party in the manner set forth in Paragraph 2.13 (Notices).

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

## **2.10 Other Termination.**

(a) This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party 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 COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination.

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

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

(a) Upon expiration or termination of this Agreement, if and to the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(b) 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 COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR 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 CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof.

(c) Notwithstanding the provisions set forth in subparagraph (b ) above, if the services involve development or improvement of previously patented inventions or previously copyrighted software, upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(d) CONTRACTOR 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 notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR

whether or not the Agreement expired or was otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

**2.12 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.

**2.13 Notices.**

(a) In General. Except as set forth in subparagraph (b) below with respect to notice of automatically adopted provisions, 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 notice sent by mail in the manner prescribed by this subparagraph 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. Any mailed notice, demand, request, consent, approval or communication that COUNTY desires to give to CONTRACTOR shall be addressed to CONTRACTOR's Contract Contact Person at the mailing address set forth in SECTION 1 of this Agreement. Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to COUNTY shall be addressed to COUNTY's Contract Administrator at the mailing address set forth in SECTION 1 of this Agreement. Either party may change its address by notifying the other party of the change of address.

(b) Provisions Adopted Automatically. COUNTY reserves the right to provide notice to CONTRACTOR via facsimile of terms, which automatically become part of this Agreement upon approval by the Napa County Board of Supervisors. Notice delivered by facsimile shall be deemed to have been received on the date a successful delivery confirmation report is generated.

(c) Waiver of Notice by CONTRACTOR. If receipt of notice is refused by CONTRACTOR or if notice is undeliverable due to CONTRACTOR's failure to provide a change of address, notice shall be deemed waived and COUNTY may proceed as though notice were accomplished.

**2.14 Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. Future versions of the following policies shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR pursuant to Paragraph 2.13. CONTRACTOR 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 COUNTY employees or contractors.

- (a) Waste Source Reduction and Recycled Product Content Procurement Policy.
- (b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment."
- (c) Drug and Alcohol Policy.
- (d) Napa County Information Technology Use and Security Policy. To this end, all

employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

## **2.15 Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to or created by CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive or create, if any, in trust and confidence, except with the prior written approval of COUNTY, as expressed through the Department Director. Upon cancellation or expiration of this Agreement, to the extent permitted by law, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR agrees to adhere to the applicable terms regarding the privacy and security of Protected Information as set forth in the COUNTY-entity agreements identified in Paragraph 1.8 of Section 1 of this Agreement (Contract Administration). CONTRACTOR shall also observe and comply with those requirements set forth in "Addendum For Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(3) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 2.15.

(4) CONTRACTOR agrees to notify COUNTY, by and through the Napa County Privacy Officer at 2751 Napa Valley Corporate Dr. Suite B, Napa, CA 94559, or 707.253-4715, immediately in the following instances:

(A) Upon the discovery of a breach of PHI/PII/other Protected Information in electronic or other media;

(B) Upon the discovery that PHI/PII/other Protected Information was, or is reasonably believed to have been accessed or acquired by an unauthorized person;

(C) Upon the discovery of a suspected security incident that involves PHI/PII/other Protected Information; or

(D) Upon the discovery of any breach, security incident, intrusion, or unauthorized access, use, or disclosure of PHI/PII/other Protected Information.

(5) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of PHI/PII/other Protected Information, or its unauthorized access to or disclosure of PHI/PII/or other Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

(c) To the extent CONTRACTOR creates, is provided, or has access to applications and records concerning any individual made or kept by COUNTY in connection with public social services (records) as defined in California Welfare & Institutions Code Section 10850, CONTRACTOR shall maintain the confidentiality of such records in accordance with Section 10850, except as otherwise permitted by COUNTY and as necessary for purposes of providing services under this Agreement.

(d) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY's data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COUNTY data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COUNTY data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COUNTY for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COUNTY must bear.

(e) HHS Contractor Security Requirements. Whenever CONTRACTOR utilizes their own equipment to perform work under this Agreement, CONTRACTOR warrants that they have reviewed "HHS Contractor Security Requirements" and can adhere to the minimum standards at all time. A copy of "HHS Contractor Security Requirements" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

## **2.16 No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

## **2.17 Amendment/Modification.**

(a) Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only COUNTY, by the Department Director (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed \$10,000), or by COUNTY's Purchasing Agent (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed the maximum aggregate amount for Purchasing Agent contracts as specified by Napa County Code section 2.36.040 (G)) or by COUNTY's Board of Supervisors (in all other instances), in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by "Exhibit A." Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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.

(b) Notwithstanding anything to the contrary in (a), this Agreement may be unilaterally modified by COUNTY upon written notice to CONTRACTOR under the following circumstances:

1. There is a decrease in state or federal funding needed for this Agreement;
2. There is a no-cost extension of the end date of the Agreement as authorized by a state or federal funding source; or
3. There is a change in state/federal law or regulation requiring a change in a provision of this Agreement.

(c) The Department Director is delegated the authority to modify this Agreement in accordance with subparagraph (b), but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to modify this Agreement under subparagraph (b).

**2.18 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.

**2.19 Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. **CONTRACTOR acknowledges its independent duty to be and to remain informed of all changes in such laws without reliance on COUNTY to provide notice of such changes.** 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, CONTRACTOR 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 (over 40), 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 (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS, use of family care leave, or political affiliation or belief. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Federal Grant Source. Notwithstanding anything to the contrary in this Agreement, if the funds for this Agreement are derived from a grant from a federal agency, pursuant to 29 CFR 97.36(i)(8) and (9), CONTRACTOR is hereby notified of, and shall comply with the requirements and regulations imposed by the federal granting agency with respect to any discovery or invention which arises or is developed pursuant to this Agreement, and pertaining to any copyrights or rights in data created or otherwise developed when engaging in activities of CONTRACTOR under this Agreement. The requirements and regulations imposed by the federal granting agency are set forth in the original grant agreement specified in Section 1 of the Agreement and are incorporated by reference herein. The original grant agreement is on file with the Clerk of the Board of Supervisors.

(d) Prevailing Wages. If the services to be provided relate to construction or pre-construction-related services, including but not limited to testing, surveying, and inspection, then this Agreement includes the following provisions:

(1) Affected work. CONTRACTOR shall comply with Labor Code sections 1774 and 1775 in relation to payment of prevailing wages for any portion of the required work performed under this Agreement on or after January 1, 2002 relating to construction design, testing, surveying and/inspection work, and construction if the State Director of Industrial Relations has established prevailing wage rates for the types of work involved.

(2) Prevailing wages rates. In accordance with the provisions of Section 1774 of the Labor Code of the State of California, to the extent the Director of Industrial Relations has established the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation and similar purposes) for the above-described portions of the work required under this Agreement, such rates of wages will be on file and available for inspection at the office of the County of Napa Department of Public Works, 1195 Third Street, Room 201, Napa, California.

(3) Payroll records. In accordance with Labor Code section 1776, a copy of all payrolls for work subject to this subparagraph shall be submitted weekly to COUNTY's Director of Public Works. Payrolls shall contain the full name, address and social security number of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. They shall also indicate apprentices and ratio of apprentices to journeymen. The employee's address and social security number need only appear on the first payroll on which his name appears. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or his agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the contract. The "Statement of Compliance" shall be on forms furnished by the Director of Public Works or his designee or on any form with identical wording. CONTRACTOR shall be responsible for the submission of copies of payrolls of all subcontractors.

(4) Apprentices. CONTRACTOR shall be responsible for ensuring compliance with the provisions of Labor Code section 1777.5 relating to employment and



payment of apprentices for work under this Agreement relating to land surveying and/or construction inspection if the total compensation to be paid CONTRACTOR for such work is \$30,000 or more.

(e) **Inclusion in Subcontracts.** To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 2.19 in all such subcontracts as obligations of the subcontractor.

(f) Notwithstanding any other provisions of this contract, CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement.

**2.20 Taxes.** CONTRACTOR agrees to file all applicable federal and state tax returns or applicable withholding documents and to pay all applicable taxes or to 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

**2.21 Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records, including clinical documentation, for at least ten (10) years after COUNTY makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

**2.22 Authority to Contract.** CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement. The parties further warrant that the signatories to this Agreement are authorized to execute this Agreement on behalf of their respective parties and that any action necessary to bind each such party has been taken by that party prior to entering into this Agreement.

**2.23 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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY

may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement. The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors terminate this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 COUNTY, through a person authorized to execute this Agreement on behalf of COUNTY, or the Department Director, has determined in writing that CONTRACTOR, although holding a "designated" position as a 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. CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY's Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

**2.24 Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party's job openings where such publication or distribution is directed to the general public.

**2.25 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.

**2.26 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.

**2.27 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.

**2.28 Entirety of Contract.** This Agreement, including documents incorporated by reference and 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.

**2.29. Other Terms and Conditions [Reserved.]**

**2.30 Acknowledgment of Funds; Compliance with Government Code Section 7550.**

(a) **In General.** Because the monies provided by COUNTY are funded by taxpayer dollars, it is important that the public know the individuals and organizations that are receiving funds from COUNTY under this Agreement. Therefore, CONTRACTOR shall acknowledge funding received under this Agreement in statements or printed materials relating thereto. All printed materials shall contain the following information in a type size and style appropriate to the materials: “Made possible by funding provided by the County of Napa.”

(b) **Compliance With Government Code Section 7550.** In addition, if the Scope of Work includes preparation of a document or written report and the total cost of the work is more than \$5,000, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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 as required by Government Code section 7550. 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.

**2.31 Compliance with Federal Health Care Program Requirements.** If CONTRACTOR will be performing services under this Agreement that are covered by a Federal Health Care Program, then:

(a) CONTRACTOR shall observe and comply with all applicable Federal Health Care Program Requirements, including but not limited to those requirements set forth in “Addendum For Contracts Involving Federal Health Care Programs—Revision of March 22, 2021.” The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and is online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall attend and/or provide Compliance Trainings as required by the Department Director unless otherwise deemed exempt by the Department Director or designee thereof.

(c) CONTRACTOR shall make COUNTY whole for any revenues lost arising from an act or omission in billing practices by CONTRACTOR.

(d) CONTRACTOR warrants that no one providing services is an Excluded Individual as such term is defined for Federal Health Care Programs.

(e) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR’s failure to comply with the obligations imposed by the “Addendum for Contractors Involving Federal Health Care Programs”. Said penalties and fines that may be

assessed are as follows: civil monetary penalties of \$11,000 per item or service; treble damages for the submission of claims for reimbursement from an excluded health care provider.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the Addenda in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR agrees to abide by COUNTY'S policies entitled "Whistleblower Protections", "The False Claims Act (Federal & State Statutes) & Other Administrative Remedies & Statutes", "Federal Anti-Kickback Prohibitions" and "Physicians Referrals – The Stark Law". The policies are on file with the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(i) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

### **2.32 Compliance with State Medi-Cal Specialty Mental Health Services Requirements.**

If CONTRACTOR, under this Agreement, is required to and performs services that are covered by a State Medi-Cal Specialty Mental Health Services Program, then:

(a) CONTRACTOR shall observe and comply with all applicable State Medi-Cal Specialty Mental Health Services Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Medi-Cal Specialty Mental Health Services-- Revision No. 1" for services performed on or after July 1, 2014. The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator, or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(c) CONTRACTOR is subject to any audits of its services or claims conducted by the Department, the California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(d) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, disallowances for payment or lost revenues identified and discovered by COUNTY that are attributable to CONTRACTOR's actions when performing its obligations under this Agreement, such as insufficient documentation by CONTRACTOR of Medical Necessity or billing errors by CONTRACTOR that preclude COUNTY from claiming the Federal Financial Participation share of Medi-Cal or State General Funds.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the applicable Addendum in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.33 Compliance with Mental Health Activities Requirements.** If CONTRACTOR, under this Agreement, is required to perform mental health activities, then:

(a) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(b) CONTRACTOR shall be subject to any audits of its services or claims conducted by Department, California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(c) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, lost revenues as identified and discovered by the COUNTY that are attributable to CONTRACTOR's performance under this Agreement such as CONTRACTOR's insufficient documentation of services as required by the Agreement.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable requirements.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party; CONTRACTOR shall include the provisions of this Paragraph in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.34 Compliance with Federal Health Insurance Portability and Accountability Act of 1996.** If CONTRACTOR shall perform services under this Agreement involving the receipt, use, or disclosure of protected health information, then:

(a) Federal and other applicable law. CONTRACTOR shall observe and comply with all applicable requirements of the Federal Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder by the U.S. Department of Health and Human Services (collectively referred to as "HIPAA"), and other applicable laws.

(b) HIPAA Business Associate Agreement. If applicable, CONTRACTOR shall comply with the terms and conditions of the HIPAA Business Associate Agreement previously entered into with COUNTY, which is incorporated by reference herein and on file with the Clerk of the Board of Supervisors.

(c) Use or Disclosure of Protected Health Information. CONTRACTOR may use or disclose protected health information for the purpose of performing functions, activities for or on behalf of COUNTY, as specified in this Agreement, provided that such use or disclosure would not violate HIPAA, if done by COUNTY, or the provisions of any applicable HIPAA Business Associate Agreement.

(d) Subcontractors. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall require compliance with all applicable HIPAA provisions, other applicable law, and any applicable HIPAA Business Associate Agreement(s) in such subcontracts as obligations of the subcontractor.

**2.35 Compliance With COUNTY's Obligations Under Contracts With Other Entities.** If CONTRACTOR under this Agreement shall perform services as a subcontractor under COUNTY's contract(s) with other entities, including, but not limited to State and Federal Agencies, and such services involve the use or disclosure of personally identifiable information, then:

(a) CONTRACTOR shall observe and comply with all applicable terms of COUNTY's contract(s) with other entities, including, but not limited to, those requirements set forth in "Addendum For Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with the obligations imposed by the "Addendum for Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities".

(c) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the "Addendum for Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" in all such subcontracts as obligations of the subcontractor.

**2.36 Napa Health Matters Listing.** If CONTRACTOR is an organization providing health, human, or social services of a type recognized for listing on the "Napa Health Matters" website, CONTRACTOR agrees to maintain a current and accurate listing on [www.NapaHealthMatters.org](http://www.NapaHealthMatters.org) for such services.

**2.37 Licensure Status.**

(a) License in Good Standing. If CONTRACTOR is providing services under this Agreement as a state-licensed professional, CONTRACTOR shall ensure that CONTRACTOR's professional license is in good standing with all applicable licensing boards. CONTRACTOR understands COUNTY may terminate the Agreement if CONTRACTOR fails to maintain a current professional license in good standing. For purposes of this Agreement, "license in good standing" means there is no suspension, revocation or probation for any reason (including the failure to pay licensing fees), nor any restriction upon the provisions of the license: including, but not limited to, restrictions placed by a licensing agency upon CONTRACTOR's license pursuant to any consent or settlement agreement or to an administrative decision of the licensing agency.

(b) Expiration of License. In the event that CONTRACTOR's professional license is not renewed on or before its expiration, CONTRACTOR shall neither provide nor be reimbursed for services pursuant to this Agreement commencing the day after license expiration and until CONTRACTOR's professional license is renewed. For purposes of this Agreement, renewal date is the date the licensing board issues a renewed license, and it is irrelevant whether the licensing board subsequently recognizes any lapse in licensure.

**2.38 Code of Ethics.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) has adopted a Code of Ethics. If the Department Director determines that the HHSA Code of Ethics applies to CONTRACTOR's activities under this Agreement,

CONTRACTOR shall read, understand, and abide by the Code of Ethics, and CONTRACTOR shall on an annual basis provide written certification to HHSA that CONTRACTOR has received, read, understands, and will abide by HHSA's Code of Ethics. The Code of Ethics may be found online at [www.countyofnapa.org](http://www.countyofnapa.org) or may be obtained from HHSA upon written request.

**2.39 Electronic Billing System.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) operates an electronic billing system program, which seeks reimbursement from the State of California for the delivery of alcohol, drug abuse and mental health services. If CONTRACTOR provides any services related to alcohol, drug abuse or mental health services under the terms of CONTRACTOR's Agreement, CONTRACTOR agrees, upon request of the Director of HHSA or the Director's designee, to implement the COUNTY's sponsored electronic health record system as part of CONTRACTOR's requirement for the delivery of these services.

**2.40 Audit Report Requirements.** If COUNTY has determined that CONTRACTOR is a "subrecipient" (also known as a "pass-through entity") as defined in 2 C.F.R. § 200 et. seq., CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. § 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement. CONTRACTOR shall observe and comply with all applicable Audit Report Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Federal Awards." The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).



## **EXHIBIT D(F)**

### **Department of Health Care Services Special Terms and Conditions**

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

## Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	19. Novation Requirements
2. Travel and Per Diem Reimbursement	20. Debarment and Suspension Certification
3. Procurement Rules	21. Smoke-Free Workplace Certification
4. Equipment Ownership / Inventory / Disposition	22. Covenant Against Contingent Fees
5. Subcontract Requirements	23. Payment Withholds
6. Income Restrictions	24. Performance Evaluation
7. Audit and Record Retention	25. Officials Not to Benefit
8. Site Inspection	26. Four-Digit Date Compliance
9. Federal Contract Funds	27. Prohibited Use of State Funds for Software
10. Termination	28. Use of Small, Minority Owned and Women's Businesses
11. Intellectual Property Rights	29. Alien Ineligibility Certification
12. Air or Water Pollution Requirements	30. Union Organizing
13. Prior Approval of Training Seminars, Workshops or Conferences	31. Contract Uniformity (Fringe Benefit Allowability)
14. Confidentiality of Information	32. Suspension or Stop Work Notification
15. Documents, Publications, and Written Reports	33. Public Communications
16. Dispute Resolution Process	34. Compliance with Statutes and Regulations
17. Financial and Compliance Audit Requirements	35. Lobbying Restrictions and Disclosure Certification
18. Human Subjects Use Requirements	

### 1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a

disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## **2. Travel and Per Diem Reimbursement**

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

### 3. Procurement Rules

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

#### a. Equipment/Property definitions

Wherever the term equipment and/or property is used, the following definitions shall apply:

(1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

(1) Equipment/property purchases shall not exceed \$50,000 annually.

To secure equipment/property above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
  - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
  - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
  - (c) Procurements shall be conducted in a manner that provides for all of the following:
    - [1] Avoid purchasing unnecessary or duplicate items.
    - [2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
    - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these

documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.

- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### **4. Equipment/Property Ownership / Inventory / Disposition**

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

- a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

- (1) **Reporting of Equipment/Property Receipt** - DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

- (2) **Annual Equipment/Property Inventory** - If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
  - (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
  - (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
- d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
  - (1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.
- e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.
- f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work



under a different DHCS agreement.

**g. Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

**Automobile Liability Insurance**

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property

damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.

- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
  - [3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

## 5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
  - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
  - (2) DHCS may identify the information needed to fulfill this requirement.
  - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
    - (a) A local governmental entity or the federal government,
    - (b) A State college or State university from any State,
    - (c) A Joint Powers Authority,
    - (d) An auxiliary organization of a California State University or a California community college,
    - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
    - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
    - (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
    - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address:  
<https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
  - (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.

- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

## **6. Income Restrictions**

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

## **7. Audit and Record Retention**

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records
  - (1) for a period of three years from the date of final payment under this Agreement, and
  - (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

## **8. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

## **9. Federal Contract Funds**

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

## **10. Termination**

### **a. For Cause**

The State may terminate this Agreement, in whole or in part, and be relieved of any payments

should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any,

shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

**b. For Convenience**

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

**11. Intellectual Property Rights**

**a. Ownership**

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other

legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- (a) For the purposes of the definition of Intellectual Property, “works” means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS’ Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS’ Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party’s license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS’ exclusive rights in the Intellectual Property, and in assuring DHCS’ sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS’ Intellectual Property rights and interests.



**b. Retained Rights / License Rights**

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

**c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California

Department of Health Care Services.” This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement’s scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement’s scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS’ prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor’s or third-party’s Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Contractor’s performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

**f. Warranties**

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor’s performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any

foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction,

manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

#### **i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

## **12. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt by law.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

## **13. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

## **14. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone

other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.

- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

## **15. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

## **16. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.
  - (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original

statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

#### **17. Financial and Compliance Audit Requirements**

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
  - (1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section***

38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(3) *If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by 2 C.F.R. §§ 200.64, 200.70, and 200.90) and expends \$750,000 or more in Federal awards*, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in 2 C.F.R. 200.501 entitled "Audit Requirements". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

(a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or

(b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.

(4) If the Contractor submits to DHCS a report of an audit other than a 2 C.F.R. 200.501 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 or more in federal funds for the year covered by the audit report.

- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.



- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

## **18. Human Subjects Use Requirements**

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

## **19. Novation Requirements**

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

## **20. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
  - (5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.

- (6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
- (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

## **21. Smoke-Free Workplace Certification**

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

## **22. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

## **23. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

## **24. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

## **25. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

## **26. Four-Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

## **27. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

## **28. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

**29. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

**30. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

**31. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
  - (1) Be necessary and reasonable for the performance of the Agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
  - (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
  - (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.

- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

**(a) Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

**(b) Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

**(c) Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

**32. Suspension or Stop Work Notification**

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.



- (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
- (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
  - (a) Cancel, extend, or modify the suspension or stop work notification; or
  - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

### **33. Public Communications**

"Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- A. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices."

### **34. Compliance with Statutes and Regulations**

- a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.

- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

### **35. Lobbying Restrictions and Disclosure Certification**

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of Title 31, U.S.C.)

#### **a. Certification and Disclosure Requirements**

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of Title 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled “Certification Regarding Lobbying”) that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled “Standard Form-LLL ‘disclosure of Lobbying Activities’”) if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
  - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or

subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.

- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**Attachment 1**  
**State of California**  
**Department of Health Care Services**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Napa County

Name of Contractor

Belia Ramos

Printed Name of Person Signing for  
Contractor

230310B

Contract / Grant Number

Signature of Person Signing for  
Contractor

                      
Date

Chair, Board of Supervisors  
Title

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services  
Local Governmental Financing Division  
County-Based Medi-Cal Administrative Activities  
Unit  
1501 Capitol Avenue  
P.O. Box 997436, MS 2628  
Sacramento, CA 95899-7436

DHCS reserves the right to notify the contractor in writing of an alternate submission address.

## Attachment 2

### CERTIFICATION REGARDING LOBBYING

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 0348-0046

(See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.
<b>4. Name and Address of Reporting Entity:</b>  <div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> Prime           <input type="checkbox"/> Subawardee            Tier ____, if known:         </div>  Congressional District, If known:		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>     Congressional District, If known:
<b>6. Federal Department/Agency</b>	<b>7. Federal Program Name/Description:</b>	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>  \$	
<b>10.a. Name and Address of Lobbying Registrant</b> <i>(If individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from 10a. (Last name, First name, MI):</i>	
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into.</b>	Signature: _____  Print Name: _____  Title: _____	

<p>This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than \$100,000 for each such failure.</p>	<p>Telephone No.: _____ Date: _____</p>
<p><b>Federal Use Only</b></p>	<p>Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)</p>

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".



9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection *of information*. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## **EXHIBIT E**

### **CONTRACTOR'S PRIVACY AND SECURITY COMMITMENTS**

This Exhibit shall constitute the "Agreement" between **UP VALLEY FAMILY CENTERS** ("CONTRACTOR") and Napa County, and applies to the functions Contractor will perform on behalf of Napa County (collectively, "Services"), that are identified in the Master Agreement.

1. **Purpose.** This Agreement is intended to ensure that CONTRACTOR will establish and implement appropriate privacy and security safeguards with respect to Napa County Confidential Information. Napa County Confidential Information includes:

- Personally Identifiable Information: such as name, date of birth, address, phone number, Social Security Number, California Identification Number, Driver's License Number, email address, ip address, and any other data that could reasonably identify an individual; pertaining to clients or employees of Napa County; and
- Medical Information: any individually identifiable information, in electronic or physical form, pertaining to the past, present or future medical condition of clients or employees of Napa County

2. **Permitted Uses and Disclosures.**

(a) Except as otherwise limited in this Agreement, CONTRACTOR may use or disclose Napa County Confidential Information to perform functions, activities, or services for, or on behalf of Napa County for the purposes specified in Attachment A to this Exhibit, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate California Civil Code Sections 56-56.37, collectively known as the Confidentiality of Medical Information Act (CMIA), and/or any other relevant state and federal privacy laws and regulations. CONTRACTOR must also make reasonable efforts to limit the use and disclosure of Napa County Confidential Information to the Minimum Necessary to accomplish the intended purpose of the use, disclosure, or request.

(b) Except as otherwise limited in this Agreement, CONTRACTOR may use Napa County Confidential Information for the proper management and administration of the CONTRACTOR, or to carry out the legal responsibilities of CONTRACTOR.

(c) Except as otherwise limited in this Agreement, CONTRACTOR may disclose Napa County Confidential Information for the proper management and administration of the CONTRACTOR provided that disclosures are required by law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) CONTRACTOR may use Napa County Confidential Information to report violations of law to appropriate Federal and State authorities.

(e) CONTRACTOR may not use or disclose Napa County Confidential Information in a manner that would violate CMIA (or other relevant state and federal privacy laws and regulations) if done by Napa County, except for the specific uses and disclosures set forth herein.

**3. Appropriate Safeguards.**

(a) CONTRACTOR agrees to use appropriate safeguards to prevent the use or disclosure of Napa County Confidential Information other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Napa County Confidential Information that is created, received, maintained or transmitted on behalf of Napa County and limit its use and disclosure to the minimum necessary.

(b) Safeguarding Electronic Napa County Confidential Information. CONTRACTOR must secure all Electronic Napa County Confidential Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with the National Institute of Standards Technology (NIST) Standards and Federal Information Processing Standards (FIPS) as applicable. Should CONTRACTOR fail to comply with this provision, it agrees to hold harmless, defend at its own expense and indemnify Napa County in accordance with the terms of Section 6 of the Agreement, "Indemnification".

(c) Destruction of Napa County Confidential Information on paper, film, or other hard copy media must involve either shredding or otherwise destroying it so that it cannot be read or reconstructed.

(d) Should any employee or subcontractor of CONTRACTOR have direct, authorized access to computer systems of Napa County that contain Napa County Confidential Information, CONTRACTOR shall immediately notify Napa County of any change of such personnel (e.g. employee or subcontractor termination, or change in assignment where such access is no longer necessary) in order for Napa County to disable the previously authorized access.

**4. Reporting Unauthorized Uses and Disclosures.**

(a) CONTRACTOR agrees to notify Napa County of any access, use or disclosure of Napa County Confidential Information not permitted or provided for by the Agreement of which it becomes aware. Such notification will be made immediately after discovery by telephone call at 707.253.4523, plus e-mail at [Privacy.Officer@countyofnapa.org](mailto:Privacy.Officer@countyofnapa.org), and will include, to the extent possible, the identification of each Individual whose Napa County Confidential Information has been, or is reasonably believed by the CONTRACTOR to have been, accessed, acquired, used or disclosed, a description of the Napa County Confidential Information involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by CONTRACTOR.

(b) A breach or unauthorized access, use, or disclosure shall be treated as discovered by CONTRACTOR on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the CONTRACTOR or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of CONTRACTOR

(c) In meeting its obligations under this section, it is understood that CONTRACTOR is not acting as the Napa County's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Agreement, it is understood and agreed that CONTRACTOR is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.

**5. Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Napa County Confidential Information**

(a) CONTRACTOR agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Napa County Confidential Information by CONTRACTOR or its employees, officers, subcontractors, agents, or other representatives.

(b) Following a breach, security incident, or any unauthorized access, use or disclosure of Napa County Confidential Information, CONTRACTOR agrees to take any and all corrective action(s) necessary to prevent recurrence, to document any such action(s), and to make this documentation available to Napa County.

(c) Except as required by law, CONTRACTOR agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Napa County Confidential Information without obtaining Napa County's prior written consent. Napa County hereby reserves the sole right to determine whether and how such notice is to be provided to any Individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice. When applicable law requires the breach be reported to a federal or state agency or that notice be given to media outlets, CONTRACTOR shall cooperate with and coordinate with Napa County to ensure such reporting is in compliance with applicable law and to prevent duplicate reporting, and to determine responsibilities for reporting.

**6. Indemnification.**

To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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.

**7. Individuals' Rights.**

(a) CONTRACTOR agrees to provide access, at the request of Napa County, and in the time and manner designated by the Napa County, to Napa County Confidential Information to Napa County or, as directed by Napa County, to an Individual.

**8. Agents and Subcontractors of CONTRACTOR.**

(a) CONTRACTOR agrees to enter into written agreements with any agent, subcontractor or vendor, to whom it provides Napa County Confidential Information received from Napa County or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa

County, that impose the same restrictions, conditions and requirements that apply through this Agreement to CONTRACTOR with respect to such information, including the requirement to immediately notify the CONTRACTOR of any instances of any breach, security incident, intrusion, or unauthorized access to or use or disclosure of Napa County Confidential Information of which it becomes aware. Upon request, CONTRACTOR shall provide copies of such agreements to Napa County.

(b) CONTRACTOR shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

**9. Audit, Inspection, and Enforcement.**

(a) CONTRACTOR agrees to make internal practices, books, and records relating to the use and disclosure of Napa County Confidential Information received from Napa County or created, received, maintained, or transmitted by CONTRACTOR on behalf of Napa County, available to any state or federal agency, for the purposes of determining compliance with applicable state and federal privacy laws and regulations.

(b) With reasonable notice, Napa County and its authorized agents or contractors may audit and/or examine CONTRACTOR's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Napa County Confidential Information to determine compliance with the terms of this Agreement. CONTRACTOR shall promptly correct any violation of this Agreement found by Napa County and shall certify in writing that the correction has been made. CONTRACTOR's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Napa County's enforcement rights under this Agreement.

**10. Permissible Requests by Napa County.** Napa County shall not request that CONTRACTOR use or disclose Protected Napa County Confidential Information in any manner that would not be permissible under the relevant state and federal privacy laws and regulations if done by Napa County.

**11. Term and Termination.**

(a) The terms of this Agreement shall remain in effect for the duration of all services provided by CONTRACTOR under the Master Agreement and for so long as CONTRACTOR remains in possession of any Napa County Confidential Information received from Napa County, or created, received, maintained or transmitted by CONTRACTOR on behalf of Napa County unless Napa County has agreed in accordance with this Section 11 that it is not feasible to return or destroy all Napa County Confidential Protected Information.

(b) Upon termination of the Master Agreement, CONTRACTOR shall recover any Napa County Confidential Information relating to the Master Agreement and this Agreement in its possession and in the possession of its subcontractors, agents or representatives. CONTRACTOR shall return to Napa County, or destroy with the consent of Napa County, all such Napa County Confidential Information, in any form, in its possession and shall retain no copies.

(c) If CONTRACTOR believes it is not feasible to return or destroy the Napa County Confidential Information, CONTRACTOR shall so notify Napa County in writing. The notification shall include: (1) a statement that the CONTRACTOR has determined that it is not

feasible to return or destroy the Napa County Confidential Information in its possession, and (2) the specific reasons for such determination. CONTRACTOR may retain only that Napa County Confidential Information which is necessary for CONTRACTOR to continue its proper management and administration or to carry out its legal responsibilities. If Napa County agrees in its sole discretion that CONTRACTOR cannot feasibly return or destroy the Napa County Confidential Information, CONTRACTOR shall ensure that any and all protections, requirements and restrictions contained in the Master Agreement and this Agreement shall be extended to any Napa County Confidential Information for so long as CONTRACTOR maintains such Napa County Confidential Information, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the Napa County Confidential Information infeasible.

(d) Napa County may immediately terminate the Master Agreement if it determines that CONTRACTOR has violated a material term of this Agreement.

(e) Survival. The obligations of CONTRACTOR under this Section 11 shall survive this Agreement.

12. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Napa County and CONTRACTOR to comply with the requirements of relevant state and federal privacy laws and regulations

13. **Notices.**

(a) 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 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.

(b) Any mailed notice, demand, request, consent, approval or communication that Napa County desires to give to CONTRACTOR shall be addressed to CONTRACTOR at the mailing address set forth in the Master Agreement.

(c) Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to Napa County shall be addressed to Napa County at the following address:

Napa County Privacy Officer  
2751 Napa Valley Corporate Drive  
Napa, CA 94558  
707.253.4715

(d) For purposes of subparagraphs (b) and (c) above, either party may change its address by notifying the other party of the change of address.

14. **Lost Revenues; Penalties/Fines.**

(a) Penalties/Fines for Failure to Comply with relevant privacy laws and regulations. CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with the obligations imposed by relevant state and federal privacy laws and regulations.

(b) Penalties/Fines (other). CONTRACTOR shall pay any penalty or fine assessed against Napa County arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0227

**TO:** Board of Supervisors

**FROM:** Jennifer Yasumoto, Director Health and Human Services Agency

**REPORT BY:** Gaby Angeles, Staff Services Analyst II

**SUBJECT:** Amendment No. 4 to Agreement No. 160075B with North Valley Behavioral Health, LLC.

### **RECOMMENDATION**

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Amendment No. 4 to Agreement No. 160075B with North Valley Behavioral Health, LLC., for a new contract maximum of \$1,000,000 for Fiscal Year 2022-2023, and each subsequent automatic renewal, for psychiatric hospitalization services.

### **EXECUTIVE SUMMARY**

Approval of today's action will increase the maximum contract amount by \$400,000, for a new contract maximum of \$1,000,000, in order to accommodate a rising number of clients needing placement.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Health & Human Services Mental Health
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Future fiscal impact:	This Agreement contains a provision for automatic annual renewal. Appropriations have been included in the approved Fiscal Year 2022-2023 budget and future fiscal years will be budgeted accordingly.



Consequences if not approved:	If not approved, HHSA would be severely limited to provide mandated inpatient psychiatric hospitalization services for clients who are at risk of harm to themselves or others, resulting in extended stays in Agency's Crisis Stabilization Services Program.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

## **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

Currently, North Valley Behavioral Health provides inpatient psychiatric services at two locations: Plumas Court and Stabler Lane, both located in Yuba City, California. Services are provided to stabilize uninsured adults and Medi-Cal beneficiaries who are deemed an imminent risk to themselves, others, or are gravely disabled because of a mental disorder. This is an acute care, locked facility. Clients can only be referred to these facilities by HHSA Mental Health Division's Crisis Stabilization Services Program after being fully evaluated and considered to be appropriate for this type of placement. Contracting with these facilities helps ensure that psychiatric inpatient resources are available for HHSA Mental Health Division clients in the event that more locally based facilities are unavailable, or unable to accept referrals, due to capacity or other issues.

Approval of this amendment will implement a contract maximum increase, bringing the maximum from \$600,000 to \$1,000,000. Facility rates are comparable to other inpatient units under County contract. Rates are all-inclusive and are the same for both Medi-Cal and uninsured clients. North Valley Behavioral Health's two facilities in this agreement allow Napa County's CSS program greater ability to place clients. An increase in placements has prompted the need for this mid-fiscal year amendment to increase the current contract maximum.

Due to limited placement options within Napa County for individuals with severe mental illness in need of acute care, utilization of out of county facilities is often necessary.

**NAPA COUNTY AGREEMENT NO. 160075B  
AMENDMENT NO. 4**

**THIS AMENDMENT NO. 4 TO AGREEMENT NO. 160075B** is effective as of the 1<sup>st</sup> day of July, 2022, by and between **NAPA COUNTY**, a political subdivision of the State of California, referred to as "COUNTY" and **NORTH VALLEY BEHAVIORAL HEALTH, LLC.**, whose business address is 1535 Plumas Court (Facility #P-019), Yuba City, CA 95991, a California limited liability corporation, hereinafter referred to as **CONTRACTOR.**" COUNTY and CONTRACTOR may be referred to below collectively as "Parties" and individually as "Party."

**RECITALS**

**WHEREAS**, on or about April 23, 2016, COUNTY and CONTRACTOR entered into Napa County Agreement No. 160075B (hereinafter referred to as "Agreement") for CONTRACTOR to provide inpatient psychiatric hospitalization services for both Medi-Cal and indigent uninsured beneficiaries; and

**WHEREAS**, as of July 1, 2017, the Parties amended the Agreement to incorporate Addendum 1 to the Scope of Work to add Temporary Conservatorship (TCON) Declarations and to incorporate Addendum 1 to Exhibit B Reimbursement for Medi-Cal and Uninsured Patients section to include a rate increase for the CONTRACTOR's day rate commencing in Fiscal Year 2017-2018 and each automatic renewal thereof; and

**WHEREAS**, as of July 1, 2019, the Parties amended the Agreement to modify Section I-Contract Administration subparagraphs 1.4 to change the name of the program manager to the name of the current Deputy Director of HHSA/Behavioral Health Director; incorporate Section 3--Specific Terms and Conditions 3.4 to delegate authority to the Director of Health and Human Services to approve future amendments to Exhibits A and B, attached to this Agreement, provided that any such amendment does not materially alter the nature of the services to be provided or increase the maximum compensation available under this Agreement; and replace Exhibit B and Addendum 1 to Exhibit B with Exhibit B-2 (Compensation and Expense Reimbursement) to include the revised all-inclusive day rate for admissions commencing in Fiscal Year 2019-2020 and each automatic renewal thereof with no change to the contract maximum; and

**WHEREAS**, as of July 1, 2021, the Parties amended the Agreement to replace Exhibit "Addendum 1 to Exhibit A" with Exhibit A-2 (Covered Services for Medi-Cal and Uninsured) and Exhibit B-2 with Exhibit B-3 (Compensation and Expense Reimbursement), to incorporate CONTRACTOR'S new/additional facility and increase the Agreement maximum to account for the new facility and rate increases; and

**WHEREAS**, as of the effective date of this Amendment No. 4, the Parties wish to further amend the Agreement to reflect an increase in the annual contract maximum, commencing Fiscal Year 2022-2023, and each subsequent automatic renewal thereof.

### **TERMS**

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the Parties hereby amend the Agreement as follows:

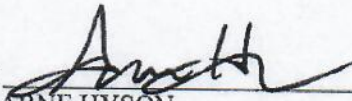
1. The maximum amount of payment on Page 1 of the Agreement shall be **One Million Dollars (\$1,000,000.00)**, of which **Four Hundred Thousand Dollars (\$400,000.00)** is increased by virtue of this Amendment No. 4; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and expenses actually incurred.
2. Except as provided above, the terms and conditions of the Agreement shall remain full force and effect as originally approved.

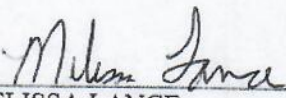
**[SIGNATURE PAGE TO FOLLOW]**



IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 4 to Napa County Agreement No. 160075B as of the date first written above.

NORTH VALLEY BEHAVIORAL HEALTH,  
LLC.

By   
ARNE HYSON  
Chief Executive Officer

By   
MELISSA LANCE  
Chief Financial Officer

"CONTRACTOR"

NAPA COUNTY, a political subdivision of  
the State of California

By: \_\_\_\_\_  
BELIA RAMOS  
Chair of the Board of Supervisors

"COUNTY"

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <i>Rachel L. Ross</i> (e- signature)</p> <p>Date: 2/7/2023</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
---	--	--



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0228

**TO:** Board of Supervisors  
**FROM:** Jennifer Yasumoto, Director Health and Human Services Agency  
**REPORT BY:** Gaby Angeles, Staff Services Analyst II  
**SUBJECT:** Agreement No. 230316B with A&A Health Services, LLC.

### **RECOMMENDATION**

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Agreement No. 230316B with A&A Health Services, LLC, in the amount of \$250,000 for Fiscal Year 2022-2023, and each subsequent renewal, for the provision of residential care for adult mental health clients.

### **EXECUTIVE SUMMARY**

Approval of today's action will allow the County to enter into an agreement with A&A Health Services, LLC, in order to allow HHSA Mental Health clients to be placed in a facility that is both appropriate for their needs and in closer proximity than other out of county facilities-allowing greater opportunity for clients and families to connect in-person and enhancing service outcomes.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Health & Human Services Mental Health
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Future fiscal impact:	This Agreement contains a provision for automatic annual renewal. Appropriations have been included in the approved Fiscal Year 2022-2023 budget and future fiscal years will be budgeted accordingly.

Consequences if not approved:

Services provided under this Agreement are deemed a mandated service category by the Department of Health Care Services (DHCS). If Napa County does not enter into an agreement with this contractor, HHSA Mental Health clients will lose the opportunity to be placed at a facility that is both appropriate for their needs and closer in proximity to Napa County than other facilities, which allows greater opportunity for clients and their families to connect in-person, enhancing service outcomes.

County Strategic Plan pillar addressed:

Healthy, Safe, and Welcoming Place to Live, Work, and Visit

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

A&A Health Services operates transitional facilities with the goal of preparing clients to step-down to the lowest level of care appropriate to their unique needs. Residential care facilities provide long-term stable housing for individuals who are unable to stay in traditional board and care community placements because their acute mental health symptoms and/or behaviors resulting from their mental illness prevent them from functioning at the level of independence required in other programs. A&A Health Services also specializes in serving co-occurring clients, those who experience both mental illness and substance use disorders. These programs serve as a less costly, community-based alternative to long-term locked settings, and are often utilized as a step down for individuals coming out of long-term locked settings to better prepare the individual for a successful reentry into the community.

A&A Health Services' facilities are located in the city of San Pablo (Contra Costa County), which is closer to Napa County than other facilities that HHSA's Mental Health Division utilizes for placements of this type. Utilizing enhanced board and care facilities has proven successful in providing services to clients who would otherwise be institutionalized.

**NAPA COUNTY AGREEMENT NO. 230316B  
PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT (the "Agreement")** is made and entered into as of the 1<sup>st</sup> day of February 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and **A&A HEALTH SERVICES, LLC.**, hereinafter referred to as "CONTRACTOR." COUNTY and CONTRACTOR may be referred to below collectively as "Parties" and individually as "Party."

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services in order to provide residential care for adult Mental Health clients and CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein;

**TERMS**

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the Terms and Conditions and their own Exhibits, which together are attached hereto and incorporated by this reference as though set forth in full herein. The Section numbers of any portion of this Agreement may at times be referred to either as "Sections" or "Paragraphs" interchangeably.

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

<b>NAPA COUNTY</b> , a political subdivision of the State of California  By: _____ <b>BELIA RAMOS, Chair of the Board of Supervisors</b>  ATTEST: NEHA HOSKINS, Clerk of the Board  By: _____ DATE APPROVED BY THE BOARD: _____  Processed by: _____ Deputy	<b>CONTRACTOR</b>  Signature  BETTY DOMINICI, CEO/Partner  Signature  JOHN RAMSBACHER, Partner
--	--

Maximum Amount of this Agreement: \$250,000.00 Term Expires: June 30, 2023 Automatic renewal of is modified.	APPROVED AS TO FORM BY NAPA COUNTY COUNSEL  By: Rachel L. Ross (e-signature) Date: February 7, 2023
--	--

## **TERMS AND CONDITIONS OF NAPA COUNTY AGREEMENT NO. 230316B**

### **SECTION 1. Contract Administration**

For purposes of this Agreement, the following shall apply:

- 1.1 “Department” shall mean: Health and Human Services Agency
- 1.2 “Director” shall mean the person elected or appointed to the chief management position of the Department.
- 1.3 “Contract Administrator” shall be: Contracts Analyst or such other person as designated by the Department Director. The address for COUNTY’s Contract Administrator shall be: 2751 Napa Valley Corporate Drive, Building B, 2<sup>nd</sup> Floor, Napa, CA 94559.
- 1.4 The Program Manager for COUNTY shall be: Cassandra Eslami, Deputy Director of HHSA—Behavioral Health Director
- 1.5 The Contract Contact Person for CONTRACTOR shall be: Betty Dominici, 3201 Danville Blvd., #265, Alamo, CA 94507
- 1.6 CONTRACTOR is a ☐ sole proprietor ☒ partnership ☐ corporation ☐ public agency ☐ other (specify) .
- 1.7 The source of funding for this Agreement shall be: State Behavioral Health Realignment funds and HHSA General fund.
- 1.8 In entering into this Agreement, CONTRACTOR acknowledges and agrees to abide by the applicable terms of the following COUNTY-entity agreements, and as they may amended from time to time: Department of Health Care Services (DHCS) Managed Care Agreement

These agreements are on file with the Napa County Clerk of the Board of Supervisors and may be accessed at <https://www.countyofnapa.org/DocumentCenter/> under “Departments/Health and Human Services/Administration/Contracts and Administration Documents” (See also Section 2, Paragraphs 2.15(b)(2) and 2.35)

### **SECTION 2. General Terms and Conditions.**

Attached hereto and incorporated by this reference as Exhibit C is “SECTION 2. General Terms and Conditions – Version 12”, which shall be referred to herein as the “General Terms and Conditions” and which shall apply to this Agreement unless otherwise specifically limited or excluded by more specific provisions.

Due to changes in the laws, future versions of General Terms and Conditions shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR, effective within such time period as is designated in Paragraph 2.10 (Other Termination) plus 15 days or as mandated by local, state or federal laws or regulations, whichever date is sooner.



### **SECTION 3. Specific Terms and Conditions.**

The following Specific Terms and Conditions provide additional terms and conditions or modify the General Terms and Conditions of this Agreement. A Specific Term and Condition shall control if a conflict exists with a General Term and Condition.

3.1 The following Specific Terms and Conditions apply when CONTRACTOR's obligations under this Agreement involve the following as designated by an "X":

[X] (a) Contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (General Terms and Conditions Paragraph 2.8(b) applies).

[ ] (b) Construction or pre-construction related services (General Terms and Conditions Paragraph 2.19(e) applies).

[ ] (c) Work on or the supplying of any software systems or equipment containing or suspected of containing clocks or embedded chips functioning as or dependent upon the use of clocks or calendars (General Terms and Conditions Paragraph 2.29 applies).

[ ] (d) Services covered by a Federal Health Care Program (General Terms and Conditions Paragraph 2.31 applies).

[X] (e) Services covered by a State Medi-Cal Specialty Mental Health Program (General Terms and Conditions Paragraph 2.32 applies).

[X] (f) Mental Health Activities (General Terms and Conditions Paragraph 2.33 applies).

[ ] (g) Services involving the receipt, use or disclosure of protected health information: A determination has been made by COUNTY's Privacy Officer that CONTRACTOR shall not provide services under this Agreement as a Business Associate to COUNTY. General Terms and Conditions Paragraph 2.34(b) does not apply to this Agreement.

[X] (h) Services provided under COUNTY's Managed Care Provider Program, which shall be subject to all the terms and conditions set forth in the Napa County Mental Health Managed Care Provider Manual, herein incorporated by reference and on file with the Clerk of the Napa County Board of Supervisors.

[ ] (i) Services as a provider for which CONTRACTOR has submitted a "Provider Application," which CONTRACTOR warrants that the information contained in said application is accurate and understands that any inaccuracies may be grounds for termination of this Agreement by COUNTY. CONTRACTOR authorizes COUNTY to consult with third parties, including but not limited, to the National Practitioner Data Bank or other applicable licensing boards.

[X] (j) Services involving the use or disclosure of personally identifiable information that are performed as a subcontractor under COUNTY's contract with another entity when that contract requires COUNTY to include its applicable terms in COUNTY's subcontracts. (General Terms and Conditions Paragraph 2.35 applies.)

[ ] (k) Services determined by the Department Director to be covered by Department's Code of Ethics. (General Terms and Conditions Paragraph 2.38 applies.) CONTRACTOR understands that, by entering into this Agreement, CONTRACTOR acknowledges that CONTRACTOR has received, read, and understands the Code of Ethics, and agrees to abide by

the terms therein as applicable to CONTRACTOR's activities under this Agreement. Department shall provide CONTRACTOR with copies of Department's Code of Ethics prior to the execution of the Agreement. CONTRACTOR further understands that on an annual basis CONTRACTOR shall provide written certification to Department that CONTRACTOR has received, read, understands, and will abide by Department's Code of Ethics.

[X] (l) Services have been determined by the Department Director, or may be determined at a later date, that CONTRACTOR is a subrecipient or pass-through entity and is therefore required to meet all of the requirements found in 2 C.F.R. § 200.331. (General Terms and Conditions 2.40 applies.) COUNTY shall notify CONTRACTOR in accordance with General Terms and Conditions Paragraph 2.13 (Notices), of any change in designation as a subrecipient, and any subsequent increase to the amount of Federal funding CONTRACTOR shall receive under the terms of this Agreement. CONTRACTOR shall be bound thereby upon receipt of notice.

### 3.2 Source Funding.

(a) Change in Source Funding. Paragraph 1.7 may be unilaterally modified by COUNTY upon written notice to CONTRACTOR who shall be bound thereby immediately upon receipt. The Department Director is delegated the authority to modify Paragraph 1.7 and provide such written notice, but may exercise such authority only after consultation with, and concurrence of, the Napa County Counsel and the Napa County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Napa County Board of Supervisors to modify Paragraph 1.7.

(b) Amendment to Source Funding Agreement. If Paragraph 1.7 identifies a funding source agreement, then any amendment to the funding source agreement shall be automatically incorporated and made a part of this Agreement, effective in accordance with the amended funding source agreement. As a subcontractor of COUNTY, CONTRACTOR shall be bound by the applicable terms of the funding source agreement, and any amendments thereto.

3.3 Statement of Economic Interests. By authorizing its Chair to execute this Agreement on its behalf, COUNTY's Board of Supervisors hereby determines in writing on behalf of COUNTY that CONTRACTOR has been hired to perform a range of duties so limited in scope as to not be required to comply with the disclosure obligations set forth in Paragraph 2.23(b).

3.4 General Terms and Conditions 2.1(b)-Automatic Renewal is modified to read in full as follows:

The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, until the final renewal period, which concludes on **June 30, 2027**, under the same terms and conditions, unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Termination for Convenience) or 2.23 (a) (Covenant of No Undisclosed Conflict). The obligations of the Parties under Paragraphs 2.7 (Insurance) and 2.8 (Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes) and 2.21 (Access to Records/Retention).

3.5 COUNTY delegates its authority to the Director of the Health and Human Services Agency to approve future amendments to Exhibits A and B, attached to this Agreement, provided that any such amendment does not materially alter the nature of the services to be provided or increase the maximum compensation available under this Agreement.

#### **SECTION 4. Incorporated Documents.**

The following documents are incorporated herein by this reference and attached hereto and labeled as the following Exhibit letters:

Exhibit A: Scope of Work (attached)

Exhibit B: Compensation (attached)

Exhibit C: "Section 2, General Terms and Conditions, Version 12" (attached)

**EXHIBIT A**  
**SCOPE OF WORK**

A&A Health Services  
From date of BOS Approval through June 30, 2023  
(And each subsequent automatic renewal thereof)

**BACKGROUND**

COUNTY shall provide mental health treatment alternatives to highly restrictive, costly placements for the chronically and severely mentally ill people it serves. CONTRACTOR is a Rehabilitative Board and Care Residential facility and is recognized as a Residential Care Facility (RCF) for adults 18-64 years of age that provides a residential alternative to the more restrictive facilities or Institutes of Mental Disease (IMD's).

CONTRACTOR shall provide augmented mental health and other auxiliary services to COUNTY Adult Mental Health clients. Clients placed with CONTRACTOR are unable to maintain residence in traditional Board and Care community placements due to insufficient structure and support in these programs that do not meet client needs. CONTRACTOR clients are unable to maintain Community Residential Care placements because their symptoms and/or behaviors impede their ability to function at the level of independence required in less restrictive settings.

**SCOPE OF SERVICES**

CONTRACTOR is a residential care facility offering a broad range of services to residents requiring a structured environment due to mental health challenges. The structured environment within a non-restrictive, supervised program focuses upon each resident's specific needs and interests.

CONTRACTOR shall maintain an environment of respect and appreciation that supports residents to discover and acquire independent living skills and self-help management skills. Program objectives are designed to help each resident reach and maintain his/her highest possible quality of life. It is the expectation that each resident will achieve individualized goals that will result in their being re-integrated into the community as soon as possible.

CONTRACTOR shall have assessments and treatment plans signed and sent to the County transitions placement director or client's conservator within 14 days.

COUNTY residents admitted to CONTRACTOR facilities recognized as an RCF will be 18 to 64 years old and have dual and triple diagnoses requiring a structured, rehabilitating environment program that will maximize each individual's potential to re-join and re-engage in the community. Individuals admitted to CONTRACTOR may have medical and/or physical impairments requiring special assistance that might include the use of a wheelchair, walkers, or cane; individuals may also have vision and/or hearing loss, or speech impairment.

CONTRACTOR shall admit COUNTY clients directly from acute settings, medical inpatient units, jail, and clients in a community setting when appropriate. All programs provided by CONTRACTOR are 24-hour services. Length of stay may vary for each client and is determined by the client's individual assessment and treatment plan developed within 14 days of admission.

COUNTY will authorize referrals to CONTRACTOR. All such referrals will have been approved for RCF level of care.

Service delivery model:

CONTRACTOR services are open 24/7 and provides care up to 225 residents.

CONTRACTOR services take a four-pronged approach to care, incorporating evidence based therapeutic modalities. CONTRACTOR empowers clients to determine their own pace as they progress through the program. Clients are supported throughout their recovery by a strengths-based, person-centered approach.

CONTRACTOR shall provide:

- Annual Individual Treatment Plan
- Documentation in residents' record of facility's follow-up care regarding dental and eye care in addition to any necessary medical care
- Transportation and escort for clinic visits when necessary
- Adherence to all protocols regarding conserved residents, including issues of resident refusal of medication or treatment services
- Assistance and cooperation in efforts to obtain resident entitlements. CONTRACTOR shall collect, documents and report to COUNTY SSI, VA and other third party payments
- CONTRACTOR shall abide by admissions and discharge notification requirements or the keeping comprehensive bed data when applicable
- CONTRACTOR facility will provide a tracking and census report to COUNTY that will include the following:
  - A. Census report by the 1<sup>st</sup> of the month
  - B. Current census broken down by level of care (rate)
  - C. New admits since previous Month (clients and date)
  - D. Discharges since previous month
  - E. Transfers and returns from acute hospitalizations since previous month
  - F. Bed holds
  - G. Other activity/information

Admissions:

COUNTY team shall be informed of CONTRACTOR's decision whether to admit or not within 72 hours of receipt of referral packet. The facility admission agreement must be signed by the facility administrator within five business days of admission.

Discharge Planning:

When requested to make a resident ready for discharge and/or transfer, the CONTRACTOR shall prepare paperwork for resident discharge and make all arrangements within five working days of written receipt from COUNTY team.

Program Staffing:

CONTRACTOR has 24/7 staffing at the facility. CONTRACTOR shall staff the facility with Mental Health Workers, Social Workers, Nurses, Medication Technicians, Cooks, Housekeeping, and an Executive Director.

Reports:

CONTRACTOR shall submit written reports as requested by the COUNTY. The format for the content of such reports shall be determined by the COUNTY. The timely submission of all reports is a necessary and material term and condition of this Agreement. All reports, including any copies, shall be submitted electronically via PDF unless requested in hard copy by the COUNTY, in which case they will be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

Possession of Licenses/Permits:

CONTRACTOR warrants the possession of all licenses and/or permits required by the laws and regulations of the United States, the State of California, and the COUNTY to provide the services. Failure to maintain these licenses and permits shall constitute a material breach of this Agreement.

Adequate Resources:

CONTRACTOR agrees that it has secured or shall secure at its own expense all persons, employees and equipment required to perform the services required under this Agreement, and that all such services shall be performed by CONTRACTOR, or under CONTRACTOR's supervision, by persons authorized by law to perform such services.

Grievance Procedure:

CONTRACTOR agrees to establish and maintain a written Client Grievance Procedure which shall include the following elements as well as others that may be appropriate to the Services: (1) the name or title of the person or persons authorized to make a determination regarding the grievance; (2) the opportunity for the aggrieved party to discuss the grievance with those who will be making the determination; and (3) the right of a client dissatisfied with the decision to ask for a review and recommendation from the community advisory board or planning council that has purview over the aggrieved service. CONTRACTOR shall provide a copy of this procedure, and any amendments thereto, to each client and COUNTY or his/her designated agent. Those clients who do not receive direct services will be provided a copy of this procedure upon request.

Infection Control, Health and Safety:

CONTRACTOR must have a Bloodborne Pathogen (BBP) Exposure Control plan as defined in the California Code of Regulations, Title 8, Section 5193, Bloodborne Pathogens

(<http://www.dir.ca.gov/title8/5193.html>), and demonstrate compliance with all requirements including, but not limited to, exposure determination, training, immunization, use of personal protective equipment and safe needle devices, maintenance of a sharps injury log, post-exposure medical evaluations, and recordkeeping.

CONTRACTOR must demonstrate personnel policies/procedures for Tuberculosis (TB) exposure control consistent with the Centers for Disease Control and Prevention (CDC) recommendations for health care facilities and based on the Francis J. Curry National Tuberculosis Center: Template for Clinic Settings, as appropriate.

CONTRACTOR assumes responsibility for procuring all medical equipment and supplies for use by their staff, including safe needle devices, and provides and documents all appropriate training.

CONTRACTOR shall demonstrate compliance with all state and local regulations with regard to handling and disposing of medical waste.

CONTRACTOR shall assume liability for any and all work-related injuries/illnesses including infectious exposures such as Aerosol Transmissible Disease and demonstrate appropriate policies and procedures for reporting such events and providing appropriate post-exposure medical management as required by State workers' compensation laws and regulations.

CONTRACTOR assumes responsibility for procuring all medical equipment and supplies for use by their staff, including Personnel Protective Equipment such as respirators, and provides and documents all appropriate training.

Patients' Rights:

All applicable Patients' Rights laws and procedures shall be implemented.

Compliance with Behavioral Health Services Policies and Procedures

In the provision of services, CONTRACTOR shall follow all applicable policies and procedures established for contractors by COUNTY as applicable, and shall keep itself duly informed of such policies. Lack of knowledge of such policies and procedures shall not be an allowable reason for noncompliance.

**EXHIBIT B**  
**COMPENSATION**

A&A Health Services  
From date of BOS Approval through June 30, 2023  
(And each subsequent automatic renewal thereof)

COUNTY shall compensate CONTRACTOR for individuals that remain residents at CONTRACTOR facility, at the agreed upon daily patch rate as listed below:

- **Daily Patch Rate: \$225 per day**

Adjusting Daily Patch Rates:

In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR for expenditures made by reference herein. With the approval of the Director of COUNTY's Health and Human Services Agency or designee, CONTRACTOR may modify the daily rates provided the total contract maximum remains unchanged. Such changes shall not be effective unless and until written notice of the date and nature of the change and the consent by CONTRACTOR and the foregoing COUNTY's Health and Human Services Agency representative has been given in writing to the Napa County Auditor Controller and to the Clerk of the Board of Supervisors. No such changes in the rates shall add a new type of services to those services set forth in Exhibit A of the Agreement.

Note: Client's monthly bed rates are provided for by reimbursement of client's SSI/SSA income. COUNTY paid patch rate is in addition to client's contribution. COUNTY may choose to place individuals at CONTRACTOR's facilities who do not qualify for SSI/SSA. For these individuals, COUNTY will reimburse CONTRACTOR the monthly rate set by the Social Security Administration for Board and Care Homes for each month. COUNTY's clients are served by CONTRACTOR. Reimbursement will be prorated for months in which COUNTY's clients are only served for a part of the month

Placement of a non-eligible SSI/SSA client must be pre-authorized by designated Program Supervisors in the COUNTY's Mental Health Division. COUNTY shall compensate the CONTRACTOR for the placement of such a client monthly based on the current SSI/SSA rate for the client. SSI/SSA monthly amount is subject to annual adjustments by the Federal Government and State of California, which adjustments shall be effective without the need for any amendment to the Agreement.

CONTRACTOR shall be paid from the clients SSI/SSA benefits. If client does not yet receive SSI/SSA benefits, or those benefits have been diminished due to back payments owed to other entities, or do not reflect standard residential care rates, COUNTY will provide replacement funds to cover the delinquent and /or amount owed for up to three months of CONTRACTOR's services.



CONTRACTOR shall submit a monthly itemized invoice for payment of services provided, that includes the contract number, name of each COUNTY client in residence, the dates of service, the rate, and the total billed for the month. Monthly invoices shall be sent to the attention of the COUNTY's Mental Health Fiscal Analyst, which shall be paid by COUNTY within 60 days of receipt. Any questions concerning invoicing shall be directed to the Mental Health Fiscal Contracts Analyst, at telephone number (707) 253-4662.

Should a client of COUNTY's have private income over which the COUNTY does not have representative payee authority, CONTRACTOR shall bill client's representative payee for the daily fee, and shall reduce the invoiced cost to the county for the amount received as reimbursement from the client's funds.

## **EXHIBIT C**

### **SECTION 2. GENERAL TERMS AND CONDITIONS --VERSION 12**

#### **2.1 Term of the Agreement.**

(a) Term. The term of this Agreement shall commence on the date first written on page 1 and shall expire on the expiration date set forth on page 1 unless terminated earlier in accordance with Paragraphs 2.9 (Termination for Cause), 2.10 (Other Termination) or 2.23(a) (Covenant of No Undisclosed Conflict).

(b) Automatic Renewal. The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the same terms and conditions, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30. COUNTY authorizes the Department Director to determine whether this Agreement shall not be renewed and to provide the written notice of the intention to not renew on behalf of COUNTY.

(c) Obligations Extending Beyond Term. The obligations of the parties under Paragraphs 2.7 (Insurance) and 2.8 (Hold Harmless/Defense/Indemnification) shall continue in full force and effect after the 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 CONTRACTOR to COUNTY shall also continue after the expiration date or early termination in relation to the obligations prescribed by Paragraphs 2.15 (Confidentiality), 2.20 (Taxes), 2.21 (Access to Records/Retention), 2.31 (Compliance with Federal Health Care Program Requirements), 2.32 (Compliance with State Medi-Cal Specialty Mental Health Services Requirements), and 2.33 (Compliance with Mental Health Activities Requirements). To the extent the paragraphs referenced in this Paragraph 2.1 may be modified by Specific Terms and Conditions contained in SECTION 3 of this Agreement, the modifications shall also continue after the expiration date or early termination.

**2.2 Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A."

#### **2.3 Compensation.**

(a) Compensation/Maximum. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates and/or in the amount(s) set forth in Exhibit "B". The maximum payment for the initial term of this Agreement, and the successive maximum payments for each subsequent automatically renewed term, shall each be that maximum amount set forth on page 1; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

(b) Advance Funding.

1. Use of Funds. To the extent this Agreement may permit advance funding of services and expenses, use of funds delineated in this Agreement is limited to the term of performance unless otherwise modified in accordance with Paragraph 2.17

(Amendment/Modification). COUNTY may at its discretion recapture funds obligated under the authority of this Agreement if expenditure plans are not being met.

2. Reversion of Funds. If funds awarded to CONTRACTOR have not been expended in accordance with this Agreement and COUNTY has determined after consultation with CONTRACTOR that funds will not be spent in a timely manner, such funds will revert to COUNTY for that reason and to the extent permitted by and in a manner consistent with federal and state law, regulations, and policies.

(c) Availability of Funds. It is mutually understood that, for the benefit of both parties, this Agreement may have been written before ascertaining the availability of congressional and/or state legislative appropriation of funds in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made. If funding of this Agreement is dependent upon the availability of congressional and legislative appropriation of funds, then:

1. This Agreement shall be deemed automatically terminated if the Congress and and/or the State Legislature do not appropriate funds needed for this Agreement;

2. At COUNTY's discretion, this Agreement may be deemed automatically terminated or this Agreement may be modified or amended in accordance with Paragraph 2.17 (Amendment/Modifications), if the Congress and/or State Legislature do not appropriate sufficient funds needed for this Agreement; and

3. This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or State Legislature, or any statute enacted by the Congress or State Legislature, that may in any manner affect the provisions, terms, or funding of this Agreement.

(d) COUNTY may withhold any compensation due CONTRACTOR as an offset for any revenues lost arising from an act or omission in billing or documentation practices by CONTRACTOR. CONTRACTOR shall make COUNTY whole for any such lost revenues.

## **2.4 Method of Payment.**

(a) Invoices. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR'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 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. Where expense reimbursement is sought, the invoice shall describe the nature and cost of the expense, the task(s) if any to which the expense was related, and the date incurred. CONTRACTOR shall submit invoices not more often than monthly to the Contract Administrator. After review and approval as to form and content, the invoice shall be submitted to the Napa County Auditor no later than fifteen (15) calendar days following receipt.

(b) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Contract Administrator upon request during the term of this Agreement in a form 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 CONTRACTOR within the State of California.

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

**2.6 Specific Performance.** It is agreed that CONTRACTOR, including the agents, employees and authorized subcontractors of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

**2.7. Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability Insurance. CONTRACTOR 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:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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 CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. 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 of Coverage. All insurance coverages referenced in 2.7(b), 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 CONTRACTOR with the Health and Human Services Agency prior to commencement of performance of any of CONTRACTOR's duties.

(1) 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, other termination, or material change, 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 2.7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 2.7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR 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 CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR 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 2.7.

(f) Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve CONTRACTOR, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

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

(a) In General. To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify COUNTY and the officers, agents, employees and volunteers of COUNTY from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions to act of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees or volunteers or other contractors or their subcontractors. 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, providing 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) Obligations Relating to Criminal Background Checks.

1. If CONTRACTOR's obligations under this Agreement involve contact with vulnerable populations such as children, elderly, mentally ill or disabled persons (hereafter in this paragraph referred to as "third persons"), then CONTRACTOR shall investigate by all lawful means, including but not limited to obtaining information from official government sources as the result of taking fingerprints, the criminal background of each and all of its officers, agents, employees, interns, and volunteers, however denominated (hereafter, "employees"), who

will have direct personal contact with, or provide direct personal services to, third persons in the performance of this contract. Depending upon the information acquired by its investigation, CONTRACTOR shall not allow any of its employees to have personal contact with, or provide direct personal services to, third persons where it may reasonably be concluded as a result of its investigation that an employee should not have such contact or provide such service. Nothing herein requires CONTRACTOR to investigate the criminal background of an employee who is currently licensed by the State of California and whose license requires a criminal background investigation.

2. Notwithstanding anything to the contrary in (a) or (c), CONTRACTOR shall defend and indemnify COUNTY and its officers, agents and employees from any and all claims, actions, settlements or judgments of whatever kind which may arise from the failure of CONTRACTOR to conduct the criminal background investigation described in this subparagraph (b) or from the failure of CONTRACTOR after the investigation to reasonably disallow an employee from having such personal contact or providing such direct personal service.

(c) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

## **2.9 Termination for Cause.**

(a) 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 written notice to the defaulting party in the manner set forth in Paragraph 2.13 (Notices).

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

## **2.10 Other Termination.**

(a) This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party 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

COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination.

(b) The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to terminate this Agreement under this Paragraph.

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

(a) Upon expiration or termination of this Agreement, if and to the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(b) 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 COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR 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 CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof.

(c) Notwithstanding the provisions set forth in subparagraph (b ) above, if the services involve development or improvement of previously patented inventions or previously copyrighted software, upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(d) CONTRACTOR 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 notice of termination and completed satisfactorily prior to the effective date of the



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

**2.12 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.

**2.13 Notices.**

(a) In General. Except as set forth in subparagraph (b) below with respect to notice of automatically adopted provisions, 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 notice sent by mail in the manner prescribed by this subparagraph 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. Any mailed notice, demand, request, consent, approval or communication that COUNTY desires to give to CONTRACTOR shall be addressed to CONTRACTOR's Contract Contact Person at the mailing address set forth in SECTION 1 of this Agreement. Any mailed notice, demand, request, consent, approval or communication that CONTRACTOR desires to give to COUNTY shall be addressed to COUNTY's Contract Administrator at the mailing address set forth in SECTION 1 of this Agreement. Either party may change its address by notifying the other party of the change of address.

(b) Provisions Adopted Automatically. COUNTY reserves the right to provide notice to CONTRACTOR via facsimile of terms, which automatically become part of this Agreement upon approval by the Napa County Board of Supervisors. Notice delivered by facsimile shall be deemed to have been received on the date a successful delivery confirmation report is generated.

(c) Waiver of Notice by CONTRACTOR. If receipt of notice is refused by CONTRACTOR or if notice is undeliverable due to CONTRACTOR's failure to provide a change of address, notice shall be deemed waived and COUNTY may proceed as though notice were accomplished.

**2.14 Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. Future versions of the following policies shall automatically become part of this Agreement upon approval by the Napa County Board of Supervisors and notice to CONTRACTOR pursuant to Paragraph 2.13. CONTRACTOR 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 COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment."

- (c) Drug and Alcohol Policy.
- (d) Napa County Information Technology Use and Security Policy. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.
- (e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

## **2.15 Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to or created by CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive or create, if any, in trust and confidence, except with the prior written approval of COUNTY, as expressed through the Department Director. Upon cancellation or expiration of this Agreement, to the extent permitted by law, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR agrees to adhere to the applicable terms regarding the privacy and security of Protected Information as set forth in the COUNTY-entity agreements identified in Paragraph 1.8 of Section 1 of this Agreement (Contract Administration). CONTRACTOR shall also observe and comply with those requirements set forth in "Addendum For Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(3) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 2.15.

(4) CONTRACTOR agrees to notify COUNTY, by and through the Napa County Privacy Officer at 2751 Napa Valley Corporate Dr. Suite B, Napa, CA 94559, or 707.253-4715, immediately in the following instances:

(A) Upon the discovery of a breach of PHI/PII/other Protected Information in electronic or other media;

(B) Upon the discovery that PHI/PII/other Protected Information was, or is reasonably believed to have been accessed or acquired by an unauthorized person;

(C) Upon the discovery of a suspected security incident that involves PHI/PII/other Protected Information; or

(D) Upon the discovery of any breach, security incident, intrusion, or unauthorized access, use, or disclosure of PHI/PII/other Protected Information.

(5) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of PHI/PII/other Protected Information, or its unauthorized access to or disclosure of PHI/PII/or other Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

(c) To the extent CONTRACTOR creates, is provided, or has access to applications and records concerning any individual made or kept by COUNTY in connection with public social services (records) as defined in California Welfare & Institutions Code Section 10850, CONTRACTOR shall maintain the confidentiality of such records in accordance with Section 10850, except as otherwise permitted by COUNTY and as necessary for purposes of providing services under this Agreement.

(d) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY's data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COUNTY data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COUNTY data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COUNTY for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COUNTY must bear.

(e) HHS Contractor Security Requirements. Whenever CONTRACTOR utilizes their own equipment to perform work under this Agreement, CONTRACTOR warrants that they have reviewed "HHS Contractor Security Requirements" and can adhere to the minimum standards at all time. A copy of "HHS Contractor Security Requirements" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

## **2.16 No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

## **2.17 Amendment/Modification.**

(a) Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only COUNTY, by the Department Director (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed \$10,000), or by COUNTY's Purchasing Agent (as long as the aggregate compensation payable to CONTRACTOR by COUNTY under this and all prior agreements with CONTRACTOR will not exceed the maximum aggregate amount for Purchasing Agent contracts as specified by Napa County Code section 2.36.040 (G)) or by COUNTY's Board of Supervisors (in all other instances), in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by "Exhibit A." Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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.

(b) Notwithstanding anything to the contrary in (a), this Agreement may be unilaterally modified by COUNTY upon written notice to CONTRACTOR under the following circumstances:

1. There is a decrease in state or federal funding needed for this Agreement;
2. There is a no-cost extension of the end date of the Agreement as authorized by a state or federal funding source; or
3. There is a change in state/federal law or regulation requiring a change in a provision of this Agreement.

(c) The Department Director is delegated the authority to modify this Agreement in accordance with subparagraph (b), but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; provided, however, that nothing in this delegation prevents the Department Director from requesting the Board of Supervisors to modify this Agreement under subparagraph (b).

**2.18 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.

**2.19 Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. **CONTRACTOR acknowledges its independent duty to be and to remain informed of all changes in such laws without reliance on COUNTY to provide notice of such changes.** 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, CONTRACTOR 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 (over 40), 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 (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS, use of family care leave, or political affiliation or belief. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Federal Grant Source. Notwithstanding anything to the contrary in this Agreement, if the funds for this Agreement are derived from a grant from a federal agency, pursuant to 29 CFR 97.36(i)(8) and (9), CONTRACTOR is hereby notified of, and shall comply with the requirements and regulations imposed by the federal granting agency with respect to any discovery or invention which arises or is developed pursuant to this Agreement, and pertaining to any copyrights or rights in data created or otherwise developed when engaging in activities of CONTRACTOR under this Agreement. The requirements and regulations imposed by the federal granting agency are set forth in the original grant agreement specified in Section 1 of the Agreement and are incorporated by reference herein. The original grant agreement is on file with the Clerk of the Board of Supervisors.

(d) Prevailing Wages. If the services to be provided relate to construction or pre-construction-related services, including but not limited to testing, surveying, and inspection, then this Agreement includes the following provisions:

(1) Affected work. CONTRACTOR shall comply with Labor Code sections 1774 and 1775 in relation to payment of prevailing wages for any portion of the required work performed under this Agreement on or after January 1, 2002 relating to construction design, testing, surveying and/inspection work, and construction if the State Director of Industrial Relations has established prevailing wage rates for the types of work involved.

(2) Prevailing wages rates. In accordance with the provisions of Section 1774 of the Labor Code of the State of California, to the extent the Director of Industrial Relations has established the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation and similar purposes) for the above-described portions of the work required under this Agreement, such rates of wages will be on file and available for inspection at the office of the County of Napa Department of Public Works, 1195 Third Street, Room 201, Napa, California.

(3) Payroll records. In accordance with Labor Code section 1776, a copy of all payrolls for work subject to this subparagraph shall be submitted weekly to COUNTY's Director of Public Works. Payrolls shall contain the full name, address and social security number of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. They shall also indicate apprentices and ratio of apprentices to journeymen. The employee's address and social security number need only appear on the first payroll on which his name appears. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or his agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the contract. The "Statement of Compliance" shall be on forms furnished by the Director of Public Works or his designee or on any form with identical wording. CONTRACTOR shall be responsible for the submission of copies of payrolls of all subcontractors.

(4) Apprentices. CONTRACTOR shall be responsible for ensuring compliance with the provisions of Labor Code section 1777.5 relating to employment and

payment of apprentices for work under this Agreement relating to land surveying and/or construction inspection if the total compensation to be paid CONTRACTOR for such work is \$30,000 or more.

(e) **Inclusion in Subcontracts.** To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 2.19 in all such subcontracts as obligations of the subcontractor.

(f) Notwithstanding any other provisions of this contract, CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement.

**2.20 Taxes.** CONTRACTOR agrees to file all applicable federal and state tax returns or applicable withholding documents and to pay all applicable taxes or to 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

**2.21 Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records, including clinical documentation, for at least ten (10) years after COUNTY makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

**2.22 Authority to Contract.** CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement. The parties further warrant that the signatories to this Agreement are authorized to execute this Agreement on behalf of their respective parties and that any action necessary to bind each such party has been taken by that party prior to entering into this Agreement.

**2.23 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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY

may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement. The Department Director is delegated the authority to terminate this Agreement in accordance with this Paragraph on behalf of COUNTY, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer or their respective designees; however, nothing in this delegation prevents the Department Director from requesting the Board of Supervisors terminate this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 COUNTY, through a person authorized to execute this Agreement on behalf of COUNTY, or the Department Director, has determined in writing that CONTRACTOR, although holding a “designated” position as a 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. CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY’s Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

**2.24 Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party’s job openings where such publication or distribution is directed to the general public.

**2.25 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.

**2.26 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.

**2.27 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.



2.28 **Entirety of Contract.** This Agreement, including documents incorporated by reference and 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.

2.29. **Other Terms and Conditions [Reserved.]**

2.30 **Acknowledgment of Funds; Compliance with Government Code Section 7550.**

(a) **In General.** Because the monies provided by COUNTY are funded by taxpayer dollars, it is important that the public know the individuals and organizations that are receiving funds from COUNTY under this Agreement. Therefore, CONTRACTOR shall acknowledge funding received under this Agreement in statements or printed materials relating thereto. All printed materials shall contain the following information in a type size and style appropriate to the materials: “Made possible by funding provided by the County of Napa.”

(b) **Compliance With Government Code Section 7550.** In addition, if the Scope of Work includes preparation of a document or written report and the total cost of the work is more than \$5,000, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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 as required by Government Code section 7550. 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.

2.31 **Compliance with Federal Health Care Program Requirements.** If CONTRACTOR will be performing services under this Agreement that are covered by a Federal Health Care Program, then:

(a) CONTRACTOR shall observe and comply with all applicable Federal Health Care Program Requirements, including but not limited to those requirements set forth in “Addendum For Contracts Involving Federal Health Care Programs—Revision of March 22, 2021.” The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and is online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall attend and/or provide Compliance Trainings as required by the Department Director unless otherwise deemed exempt by the Department Director or designee thereof.

(c) CONTRACTOR shall make COUNTY whole for any revenues lost arising from an act or omission in billing practices by CONTRACTOR.

(d) CONTRACTOR warrants that no one providing services is an Excluded Individual as such term is defined for Federal Health Care Programs.

(e) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR’s failure to comply with the obligations imposed by the “Addendum for Contractors Involving Federal Health Care Programs”. Said penalties and fines that may be

assessed are as follows: civil monetary penalties of \$11,000 per item or service; treble damages for the submission of claims for reimbursement from an excluded health care provider.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the Addenda in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR agrees to abide by COUNTY'S policies entitled "Whistleblower Protections", "The False Claims Act (Federal & State Statutes) & Other Administrative Remedies & Statutes", "Federal Anti-Kickback Prohibitions" and "Physicians Referrals – The Stark Law". The policies are on file with the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(i) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

### **2.32 Compliance with State Medi-Cal Specialty Mental Health Services Requirements.**

If CONTRACTOR, under this Agreement, is required to and performs services that are covered by a State Medi-Cal Specialty Mental Health Services Program, then:

(a) CONTRACTOR shall observe and comply with all applicable State Medi-Cal Specialty Mental Health Services Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Medi-Cal Specialty Mental Health Services-- Revision No. 1" for services performed on or after July 1, 2014. The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator, or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(c) CONTRACTOR is subject to any audits of its services or claims conducted by the Department, the California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(d) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, disallowances for payment or lost revenues identified and discovered by COUNTY that are attributable to CONTRACTOR's actions when performing its obligations under this Agreement, such as insufficient documentation by CONTRACTOR of Medical Necessity or billing errors by CONTRACTOR that preclude COUNTY from claiming the Federal Financial Participation share of Medi-Cal or State General Funds.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the applicable Addendum in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.33 Compliance with Mental Health Activities Requirements.** If CONTRACTOR, under this Agreement, is required to perform mental health activities, then:

(a) CONTRACTOR shall provide such documentation as required by the Department Director, Contract Administrator or designees thereof at any time for purposes of quality assurance, audit, or to substantiate claims for payment. COUNTY may elect to withhold payment, or request reimbursement of payments made, for failure by CONTRACTOR to provide such documentation as required by COUNTY.

(b) CONTRACTOR shall be subject to any audits of its services or claims conducted by Department, California State Department of Mental Health or other auditors. Any resulting audit exemption shall be repaid to COUNTY.

(c) CONTRACTOR shall make COUNTY whole for any losses, including, but not limited to, lost revenues as identified and discovered by the COUNTY that are attributable to CONTRACTOR's performance under this Agreement such as CONTRACTOR's insufficient documentation of services as required by the Agreement.

(e) To the extent that CONTRACTOR must make COUNTY whole under this Paragraph, COUNTY may elect to withhold any payments for past services, offset against any payments for future services for which CONTRACTOR provides, or demand reimbursement without offset.

(f) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable requirements.

(g) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party; CONTRACTOR shall include the provisions of this Paragraph in all such subcontracts as obligations of the subcontractor.

(h) CONTRACTOR shall provide copies of any and all clinical documentation supporting the services it provided pursuant to this Agreement at any time requested by COUNTY, including after this Agreement is terminated. CONTRACTOR shall provide copies of documentation requested by COUNTY immediately, and by no later than 14 calendar days, after such request is made. As set forth in Paragraph 2.21, CONTRACTOR is required to maintain all records, including clinical documentation, for a period of ten (10) years after COUNTY makes final payment for any work authorized pursuant to this Agreement and after all audit and fiscal matters are closed by COUNTY, whichever is later. Failure by CONTRACTOR to provide such documentation upon request by COUNTY shall subject contractor to monetary damages, in addition to CONTRACTOR reimbursing the payments it received from COUNTY for services related to the requested documentation, and all remedies and damages that COUNTY may seek for CONTRACTOR'S breach of its specific performance of the services provided pursuant to this Agreement.

**2.34 Compliance with Federal Health Insurance Portability and Accountability Act of 1996.** If CONTRACTOR shall perform services under this Agreement involving the receipt, use, or disclosure of protected health information, then:

(a) Federal and other applicable law. CONTRACTOR shall observe and comply with all applicable requirements of the Federal Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder by the U.S. Department of Health and Human Services (collectively referred to as "HIPAA"), and other applicable laws.

(b) HIPAA Business Associate Agreement. If applicable, CONTRACTOR shall comply with the terms and conditions of the HIPAA Business Associate Agreement previously entered into with COUNTY, which is incorporated by reference herein and on file with the Clerk of the Board of Supervisors.

(c) Use or Disclosure of Protected Health Information. CONTRACTOR may use or disclose protected health information for the purpose of performing functions, activities for or on behalf of COUNTY, as specified in this Agreement, provided that such use or disclosure would not violate HIPAA, if done by COUNTY, or the provisions of any applicable HIPAA Business Associate Agreement.

(d) Subcontractors. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall require compliance with all applicable HIPAA provisions, other applicable law, and any applicable HIPAA Business Associate Agreement(s) in such subcontracts as obligations of the subcontractor.

**2.35 Compliance With COUNTY's Obligations Under Contracts With Other Entities.** If CONTRACTOR under this Agreement shall perform services as a subcontractor under COUNTY's contract(s) with other entities, including, but not limited to State and Federal Agencies, and such services involve the use or disclosure of personally identifiable information, then:

(a) CONTRACTOR shall observe and comply with all applicable terms of COUNTY's contract(s) with other entities, including, but not limited to, those requirements set forth in "Addendum For Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" which is incorporated by reference herein, is on file with the Clerk of the Board of Supervisors and the Department, and is also online at: [www.countyofnapa.org](http://www.countyofnapa.org).

(b) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with the obligations imposed by the "Addendum for Contracts Involving Personally Identifiable Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities".

(c) To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include the provisions of the "Addendum for Contracts Involving Protected Information Subject to Confidentiality or Security Provisions of County's Agreements with Other Entities" in all such subcontracts as obligations of the subcontractor.

**2.36 Napa Health Matters Listing.** If CONTRACTOR is an organization providing health, human, or social services of a type recognized for listing on the "Napa Health Matters" website, CONTRACTOR agrees to maintain a current and accurate listing on [www.NapaHealthMatters.org](http://www.NapaHealthMatters.org) for such services.

**2.37 Licensure Status.**

(a) License in Good Standing. If CONTRACTOR is providing services under this Agreement as a state-licensed professional, CONTRACTOR shall ensure that CONTRACTOR's professional license is in good standing with all applicable licensing boards. CONTRACTOR understands COUNTY may terminate the Agreement if CONTRACTOR fails to maintain a current professional license in good standing. For purposes of this Agreement, "license in good standing" means there is no suspension, revocation or probation for any reason (including the failure to pay licensing fees), nor any restriction upon the provisions of the license: including, but not limited to, restrictions placed by a licensing agency upon CONTRACTOR's license pursuant to any consent or settlement agreement or to an administrative decision of the licensing agency.

(b) Expiration of License. In the event that CONTRACTOR's professional license is not renewed on or before its expiration, CONTRACTOR shall neither provide nor be reimbursed for services pursuant to this Agreement commencing the day after license expiration and until CONTRACTOR's professional license is renewed. For purposes of this Agreement, renewal date is the date the licensing board issues a renewed license, and it is irrelevant whether the licensing board subsequently recognizes any lapse in licensure.

**2.38 Code of Ethics.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) has adopted a Code of Ethics. If the Department Director determines that the

HHSA Code of Ethics applies to CONTRACTOR's activities under this Agreement, CONTRACTOR shall read, understand, and abide by the Code of Ethics, and CONTRACTOR shall on an annual basis provide written certification to HHSA that CONTRACTOR has received, read, understands, and will abide by HHSA's Code of Ethics. The Code of Ethics may be found online at [www.countyofnapa.org](http://www.countyofnapa.org) or may be obtained from HHSA upon written request.

**2.39 Electronic Billing System.** CONTRACTOR understands that Napa County Health and Human Services (HHSA) operates an electronic billing system program, which seeks reimbursement from the State of California for the delivery of alcohol, drug abuse and mental health services. If CONTRACTOR provides any services related to alcohol, drug abuse or mental health services under the terms of CONTRACTOR's Agreement, CONTRACTOR agrees, upon request of the Director of HHSA or the Director's designee, to implement the COUNTY's sponsored electronic health record system as part of CONTRACTOR's requirement for the delivery of these services.

**2.40 Audit Report Requirements.** If COUNTY has determined that CONTRACTOR is a "subrecipient" (also known as a "pass-through entity") as defined in 2 C.F.R. § 200 et. seq., CONTRACTOR represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by COUNTY as set forth in 2 C.F.R. § 200 et. seq., as currently enacted or as may be amended throughout the term of this Agreement. CONTRACTOR shall observe and comply with all applicable Audit Report Requirements, including but not limited to those requirements set forth in "Addendum for Contracts Involving Federal Awards." The Addendum is incorporated by reference as if set forth herein. A copy of the Addendum is on file with and available for inspection in the offices of the Clerk of the Napa County Board of Supervisors and the Department and are also online at: [www.countyofnapa.org](http://www.countyofnapa.org).



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0310

---

**TO:** Board of Supervisors

**FROM:** Jennifer Yasumoto, Director Health and Human Services Agency

**REPORT BY:** Gaby Angeles, Staff Services Analyst II

**SUBJECT:** Adoption of a Resolution Amending the Bylaws of the Napa County Mental Health Board

---

### **RECOMMENDATION**

Director of Health and Human Services Agency (HHSA) requests adoption of a Resolution amending the Napa County Bylaws Manual Part II, Section 8 Mental Health Board, effective January 9, 2023, to reflect changes to Article V-Qualifications of Members and Article XV-Policies and Procedures.

### **EXECUTIVE SUMMARY**

Approval of today's action adopts a resolution amending the Napa County Bylaws Manual Part II, Section 8 Mental Health Board, due to new legislation mandating that a minimum of one member of the Mental Health Board (MHB) be a veteran or veteran advocate. The MHB met in regular session on January 9, 2023 and approved an updated version of their Bylaws.

Section 8 of the Napa Policy Manual relating to the establishment of County boards, commissions and committees requires that rules and regulations for the conduct of business of the various commissions must be adopted by the Board of Supervisors.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

The MHB is appointed by the Board of Supervisors to advise them on mental health issues within the County. The MHB provides education and advocacy on mental health issues to the State, within the community, and acts as an oversight board for the mental health programs of HHSA.

On January 9, 2023, the MHB approved the changes to its Bylaws. Adoption of the resolution will provide BOS approval of these changes, in accordance with Section 8 of the County of Napa Policy Manual. The changes to the Bylaws include:

Page 3, ARTICLE V - QUALIFICATIONS OF MEMBERS, item 1 - Amend to read “Qualification of Members. The members of the Mental Health Board shall be composed of the following:

- a. One member of the Napa County Board of Supervisors.
- b. At least one veteran or veteran advocate.
- c. At least fifty percent of the Board membership shall be consumers, who are receiving or have received mental health services, or their family members as defined in exhibit A.
- d. At least twenty percent of the Board membership shall be consumers.
- e. At least twenty percent of the Board shall be family members of consumers.
- f. Any members who are not consumers or family members of consumers shall be individuals who are interested and concerned citizens from the general public.

The composition of the Mental Health Board should reflect the ethnic diversity of the consumer population and the demographics of the county as a whole to the extent feasible.”

Page 9-10, ARTICLE XV - POLICIES AND PROCEDURES - Amend to update the Chair of the MHB and incorporate Veteran or Veteran Advocate to the Percentage Tables accordingly.



**RESOLUTION NO. 2023-139**

**A RESOLUTION THE NAPA COUNTY BOARD OF SUPERVISORS,  
STATE OF CALIFORNIA, APPROVING AMENDMENTS TO THE  
BYLAWS OF THE MENTAL HEALTH BOARD**

**WHEREAS**, the Napa County Mental Health Board desires to amend its previously adopted Bylaws, dated September 25, 2017, to amend Article V-Qualifications of Members and Article XV-Policies and Procedures due to new legislation requiring one member to be a veteran or veteran advocate; and

**WHEREAS**, on January 9, 2023, the Napa County Mental Health Board reviewed and approved revisions to its Bylaws, a copy of which is attached to this Resolution as Exhibit "A"; and

**WHEREAS** the Napa County Mental Health Board Bylaws require that the Board of Supervisors approve any amendments.

**NOW, THEREFORE, BE IT RESOLVED** that the Napa County Board of Supervisors, hereby approves the amendments to the Napa County Mental Health Board Bylaws a copy of which is attached as Exhibit "A." The County Executive Officer is also hereby directed to place a copy of this Resolution, in Part II of the Napa County Policy Manual, Section 8.

The foregoing resolution was duly and regularly adopted at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 14<sup>th</sup> day of March, 2023, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSTAIN: SUPERVISORS

ABSENT: SUPERVISORS

NAPA COUNTY, a political subdivision of  
the State of California

By: \_\_\_\_\_  
BELIA RAMOS, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel  By: <i>Corey S. Utsurogi</i>  Date: March 8, 2023	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: _____
--	---	--

Established: July 20, 1993; Resolution No. 93-82  
Amended: July 5, 1994; Resolution No.  
94-69 Amended: January 10, 1995;  
Resolution No. 95-6 Amended: August 23,  
2005; Resolution No. 05-145  
Amended: January 29, 2008; Resolution No. 05-145  
Amended: June 16, 2009; Resolution 09-71  
December 7, 2010; Resolution No. 2010-150  
September 25, 2012; Resolution No. 2012-139  
Amended: **September 12, 2017; Resolution No. 2017-139**  
Amended: \_\_\_\_\_; Resolution No. \_\_\_\_

**BYLAWS OF THE  
NAPA COUNTY MENTAL HEALTH BOARD**

**ARTICLE I - NAME**

The name of this Board shall be the Napa County Mental Health Board (“Mental Health Board”).

**ARTICLE II - AUTHORITY**

The authority of the Napa County Mental Health Board is established pursuant to the Bronzan-McCorquodale Act which may be found at Part 2 of Division 4.7 of the California Welfare and Institutions Code (commencing at section 5600 et seq.).

**ARTICLE III - PURPOSE**

The purposes of the Mental Health Board are as follows:

1. Review and evaluate the county’s mental health needs, services, facilities and special problems.
2. Review any county agreements entered into pursuant to Section 5650.
3. Advise the Napa County Board of Supervisors and the Napa County Mental Health Director as to any aspect of the county’s mental health program.
4. Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process.
5. Submit an annual report to the Napa County Board of Supervisors on the needs and performance of the mental health system of Napa County.
6. Review and make recommendations on applicants for appointment of the Napa County Director of Mental Health Services. The Mental Health Board shall be included in the selection process prior to the vote of the Napa County Board of Supervisors.

7. Review and comment on Napa County's performance outcome data and communicate its findings to the California Mental Health Planning Council.
8. Assess the impact of the realignment of services from the state to Napa County on services delivered to clients and on the local community.
9. Perform such additional duties as may be assigned to the Mental Health Board by the Napa County Board of Supervisors.

#### **ARTICLE IV - MEMBERS OF MENTAL HEALTH BOARD**

1. Number of Members of the Board. There shall be 15 members of the Mental Health Board. All members shall be voting members. The members shall consist of those individuals appointed by the Napa County Board of Supervisors to the Mental Health Board. A quorum shall be one person more than one-half of the appointed members. Quorum is defined in accordance with California Welfare & Institutions Code Section 5604.5 (c).
2. Direction of the Mental Health Board Required. The activities and affairs of individual members of the Mental Health Board, acting as Board members, shall be conducted, and powers exercised, by and under the direction of the Mental Health Board and these Bylaws.
3. Terms of Office. Terms for each member of the Mental Health Board shall be three years. Members shall be limited to two consecutive three year terms unless waived by a majority vote of the Napa County Board of Supervisors; provided, however, members serving on July 11, 2005, may be appointed to two additional three year terms without requiring a waiver from the Board of Supervisors. The foregoing provision for members serving on July 11, 2005 shall sunset on December 31, 2012.
4. Compensation. No member shall be compensated for duties performed as a member of the Mental Health Board. Notwithstanding the previous sentence, a member may be reimbursed for the actual costs of attending meetings, conferences or similar gatherings if attendance at the meeting, conference or similar gathering is approved in advance in writing by the Mental Health Board Chair and the Napa County Mental Health Director.
5. Requirements Applicable to all Members. A member of the Mental Health Board must:
  - a. Be appointed by the Napa County Board of Supervisors.
  - b. Take the Oath of Office administered by the Clerk of the Napa County Board of Supervisors.
  - c. Serve on at least one Committee or Work Group of the Mental Health Board or serve as a Mental Health Board representative on a designated local, regional or

state committee/commission or professional/service organization as approved or excused by the Executive Committee for good cause shown.

- d. Maintain a satisfactory meeting attendance record to Mental Health Board meetings and other assignments as defined in Article XI of these Bylaws.
- e. Comply with all applicable regulations of the Fair Political Practices Commission, including, but not limited to, preparing and filing FPPC Form 700, if required, within 30 days of appointment and annually prior to April 1<sup>st</sup> of each year.
- f. Keep any confidential information obtained while performing duties as a Mental Health Board member confidential.
- g. Participate in site visits of a mental health facility or program, once per year, unless excused by the Executive Committee.

#### **ARTICLE V - QUALIFICATIONS OF MEMBERS**

1. Qualification of Members. The members of the Mental Health Board shall be composed of the following:
  - a. One member of the Napa County Board of Supervisors.
  - b. At least one veteran or veteran advocate.
  - c. At least fifty percent of the Board membership shall be consumers, who are receiving or have received mental health services, or their family members as defined in exhibit A.
  - d. At least twenty percent of the Board membership shall be consumers.
  - e. At least twenty percent of the Board shall be family members of consumers.
  - f. Any members who are not consumers or family members of consumers shall be individuals who are interested and concerned citizens from the general public.

The composition of the Mental Health Board should reflect the ethnic diversity of the consumer population and the demographics of the county as a whole to the extent feasible.

2. Residents of the County Required; Exceptions. Members appointed should be residents of Napa County if possible. If it is not possible to secure membership as specified from among persons who reside in the county, the Napa County Board of Supervisors may substitute representatives of the public interest in mental health who are not full-time or part-time employees of county mental health service, the State Department of Mental Health, or on the staff of, or a paid member of the governing body of, a mental health

contract agency. However, pursuant to Welfare and Institutions Code Section 5604(3)(d)(1) and (2) Consumer Members may be employed by county mental health services or a mental health contract agency if they have no interest, influence, or authority over any financial or contractual matter concerning the employer. That member shall abstain from voting on any financial or contractual issue concerning his or her employer that may come before the board.

3. Individuals Disqualified From Serving. The following individuals are disqualified from serving on the Napa County Mental Health Board:

No member of the Mental Health Board or his or her spouse shall be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Mental Health, or an employee of, or a paid member of the governing body of, a mental health contract agency. However, pursuant to Welfare and Institutions Code Section 5604(3)(d)(1) and (2) Consumer Members may be employed by county mental health services or a mental health contract agency if they have no interest, influence, or authority over any financial or contractual matter concerning the employer. That member shall abstain from voting on any financial or contractual issue concerning his or her employer that may come before the board.

#### **ARTICLE VI - RECRUITMENT OF MEMBERS**

1. Responsibility for Recruitment. Recruitment of prospective members of the Napa County Mental Health Board shall be the responsibility of individual members of the Napa County Board of Supervisors and members of the Mental Health Board. An effort will be made to recruit mental health professionals as well as individuals who have experience and knowledge of the mental health system.
2. Board of Supervisors Recruitment. Board Supervisors are encouraged to nominate individuals from their respective district to facilitate wider representation across Napa County, for a total of five Mental Health Board members to be nominated and appointed by the Board of Supervisors. The Board of Supervisors may accept more than one nomination from each district based on interest and willingness of community members to serve.
3. Recruitment by the Mental Health Board. Interview and Recommendation. All applicants, except those nominated directly by the Board of Supervisors, shall initially be interviewed by at least two members of the Mental Health Board. Names of the applicants recommended shall be presented to the full Mental Health Board for its consideration. Those applicants recommended by the Mental Health Board shall then be referred to the Board of Supervisors with a recommendation they be appointed to the Napa County Mental Health Board.

**ARTICLE VII - MEETINGS**

1. Annual Meetings. There shall be a regular meeting, which shall constitute the annual meeting of the Mental Health Board, to be held on the second Monday of July of each year at which time the officers will present their reports, a meeting schedule will be adopted for the next twelve months, and elections held. If the second Monday of July falls on a Holiday, the meeting shall be held on the third Monday of July.
2. Regular Meetings. Other regular meetings of the Mental Health Board may be held at such time and place as is established by the annual meeting schedule.
3. Special Meetings. Special meetings, for any purpose or purposes related to the business of the Mental Health Board, may be called at any time by the Chair of the Board or by a majority of the Board members.
4. Notice of Annual and Regular Meetings. Notice of the Annual Meeting shall be given to each member of the Mental Health Board by one of the following methods: (a) by personal delivery of written notice; (b) by first class mail, postage prepaid; (c) by fax transmittal or e-mail of written notice; or (d) by telephone, either directly to the member or to a person at the member's office who would reasonably be expected to communicate that notice promptly to the member. Notices sent by first class mail shall be deposited in the U.S. Mail not less than five days before the time set for the meeting. Notice given by personal delivery, fax, e-mail, or telephone shall occur at least 72 hours before the time set for the meeting. All such notices shall be given or sent to the members address or telephone number as shown on the records of the Board.
5. Notice of Special Meeting. A special meeting may be called at any time by the Chair of the Mental Health Board or by a majority of the Mental Health Board members. Notice of special meetings shall be given by delivering written notice to each member of the Mental Health Board and to each local newspaper of general circulation and radio or television station that has requested notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the Board. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the Board a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

**ARTICLE VIII - OFFICERS**

1. Officers of the Board. The officers of the Board shall consist of a Chair and Vice-Chair.

2. Election of Officers. The offices of Chair and Vice-Chair shall be elected at the annual meeting of the Board and those elected shall serve for a term of at least one but not more than two consecutive years. It is the non-binding policy of the Board that the Vice-Chair will be the person that will normally be elected to serve as Chair in the year following service as Vice-Chair.

If the Chair's office is vacated prior to the end of the one year term, the Vice Chair shall assume the Chair's office and a replacement Vice Chair nominated at the next regularly scheduled meeting. The election vote for the new Vice Chair shall be held at the next regularly scheduled meeting following the nomination meeting.

### **ARTICLE IX - DUTIES OF OFFICERS AND OTHER BOARD POSITIONS**

Duties of the Officers of the Board. The duties of the officers of the Mental Health Board shall be as follows:

1. Chair. It shall be the duty of the Chair to prepare the agenda for and preside over all regular and special meetings of the Board; to appoint Committee and Work Group chairs; coordinate existing Committees and Work Groups; serve as an ex-officio member of all Committees and Work Groups; call special meetings of the Board when necessary; and be in regular consultation with the Napa County Director of Mental Health.
2. Vice-Chair. It shall be the duty of the Vice-Chair to assist the Chair in the execution of his or her office and to act in his or her stead during an absence. In case of resignation or death of the Chair, the Vice-Chair shall perform such duties as are imposed on the Chair until such time as the Mental Health Board elects a new Chair.
3. Upon the expiration of his or her term of office, or in the case of resignation, each Officer shall turn over to his or her successor, without delay, all records books and other materials pertaining to the office.

Duties of Other Board Positions. The duties of other positions shall be as follows:

4. Secretary. The Mental Health Board shall be supported by a Secretary. The Director of Napa County Health & Human Services Agency or her/his representative shall designate staff to serve as Secretary to the Board. It shall be the duty of the Secretary to keep a record of all annual, regular and special meetings of the Mental Health Board. The Secretary shall perform such secretarial duties and responsibilities as defined by mutual agreement of the Chair and the Director of Mental Health.

### **ARTICLE X - COMMITTEES**

1. The following Standing Committee is created:

An Executive Committee. The Executive Committee, will be composed of the current and past Chair, Vice Chair, and three Members-at-Large. The term of Executive Committee members shall coincide with their terms as members of the Board. The Executive Committee shall be responsible for the overall management of the activities and business of the Mental Health Board. This includes, but is not necessarily limited to, the following:

- a. Establishing and overseeing of Ad Hoc Committees and Work Groups; coordinating selection and implementation of site visits; approving Mental Health Board agendas; drafting policies and procedures for Mental Health Board approval; and selecting Work Group and Committee chairs on the recommendation of the Mental Health Board Chair.
  - b. Selection of Members-at-Large. Any member of the Mental Health Board, other than the Chair, Vice-Chair and past Chair, can potentially be a Member-at-Large. In July of each year, the Chair, Vice-Chair and past Chair, will make recommendations for three Members-at-Large to be approved by vote of the Mental Health Board each August. Prior to the vote on these recommendations, the floor will be open to Board members for additional nominations. Members-at-Large will attend and participate in Executive Committee meetings. Members-at-Large will have voting rights during Executive Committee meetings.
2. Standing Committees may be established or eliminated by the Mental Health Board. Standing Committees have ongoing responsibilities concerning a particular subject matter that is not time limited. Committees and Work Groups will conduct meetings in accordance with the Brown Act (Government Code Section 54950 et seq.) to the extent applicable.

#### **ARTICLE XI – ATTENDANCE & VACANCIES ON THE BOARD**

1. All Mental Health Board members are required to contact the Mental Health Board Chair or Secretary prior to a meeting if they are unable to attend. Failure to do so will result in an unexcused absence.
2. A Board member may be deemed by the Executive Committee to have ceased to discharge the duties of a Mental Health Board member based on attendance and/or performance of other assigned duties. If after review, the Executive Committee determines the member should be removed, a recommendation will be made to the full Mental Health Board. Upon a two thirds vote the Mental Health Board may recommend the removal of the member to the Board of Supervisors.
3. If a vacancy occurs due to the occurrence of any of the events described in section 1770 of the California Government Code, the Secretary shall advise the Board and the Executive Committee will commence the recruitment for a replacement.



**ARTICLE XII - RESIGNATIONS AND LEAVES OF ABSENCE**

1. Any member may resign effective upon giving written notice to the County Executive Office with a copy to the Chair, the Vice Chair or the Secretary of the Mental Health Board. A notice which specifies a later time shall be effective upon the date of the resignation set forth in said notice.
2. A Board member, who does not wish to resign and who needs leave from board commitments, may request a leave of absence for personal reasons. The request must be submitted in writing to the Chair of the Mental Health Board. The Executive Committee may approve his or her request for a period of time not to exceed 6 months. A member on leave may request an extension in writing to the Chair and such extension is subject to the approval of the Executive Committee. The request for extension will be reviewed by the Executive Committee as to the reasonableness of the extension and the overall impact on the Board in carrying out its responsibilities.

**ARTICLE XIII - MEETINGS, QUORUMS, AND RULES OF ORDER**

1. The Mental Health Board shall meet monthly or as scheduled on the Board's approved annual calendar of meetings. A quorum shall consist of one person more than one-half of the appointed members. Members who are on an approved leave of absence will not count toward establishing a quorum.
2. Meetings of the Mental Health Board shall be governed by The Standard Code of Parliamentary Procedure (Sturgis 4th Edition) as modified to allow open participation of the Chair and to comply with the Brown Act.

**ARTICLE XIV - AMENDMENTS TO BYLAWS**

These bylaws may be amended at any meeting of the Mental Health Board by a two-thirds vote of the membership of said Board when reasonable advance notice has been given as described below.

The Mental Health Board shall use the following procedure when amending the Bylaws.

- a. Proposals for change shall be noticed on the Mental Health Board agenda and a written copy sent to all Napa County Mental Health Board members a minimum of five days prior to the meeting date on which proponents wish consideration and a vote on the change.
- b. The Mental Health Board must approve the change by a two-thirds majority of those members in attendance at a regular or special meeting at which a quorum is present.
- c. The change, as approved, is to be signed and dated by the Mental Health Board Chair.

- d. The changed and revised copy of the Bylaws is then forwarded to the Napa County Board of Supervisors for their review and approval/disapproval and signature by the Board of Supervisors Chair or designated representative.
- e. A copy of approved changed Bylaws is to be provided to each Napa County Mental Health Board member at the next regularly scheduled meeting.
- f. An original copy, signed by the Mental Health Board Chair and the Board of Supervisors, of the approved changed Bylaws is to be filed with the Mental Health Board Secretary. Additionally, an appropriate historical log of all Bylaw changes and the date of the change are to be maintained by the Mental Health Board Secretary. The historical log is to be distributed to all Mental Health Board members whenever “Proposals for Changes” are distributed.
- g. All members will be provided with a set of the current Mental Health Board Bylaws and Policies and Procedures.

#### **ARTICLE XV - POLICIES AND PROCEDURES**

The Mental Health Board may establish Policies and Procedures on matters not covered by these Bylaws.

Napa County Mental Health Board:

By: *Robert Palmer*  
Robert Palmer, Chair

Date of Mental Health Board Approval: 1-9-2023

**EXHIBIT “A”**

Section 5604 of the California Welfare and Institutions Code provides in pertinent part:

5604 (a)(I) Each community mental health service shall have a mental health board consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing body except that boards in counties with a population of less than 80,000 may have a minimum of five members. One member of the board shall be a member of the local governing board. Any county with more than five supervisors shall have at least the same number of members as the size of its board of supervisors. Nothing in this section shall be construed to limit the ability of the governing body to increase the number of members above 15. Local mental health boards may recommend appointees to the county supervisors. Counties are encouraged to appoint individuals who have experience and knowledge of the mental health system. The board membership should reflect the ethnic diversity of the client population in the county.

(2) Fifty percent of the board membership shall be consumers or the parents, spouse, sibling, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers.

**PERCENTAGE TABLES**

	<b>11 Members:</b>		<b>12 Members:</b>		<b>13 Members:</b>	
CONSUMER	20%	=3	20%	=3	20%	=3
FAMILY MEMBER OF CONSUMER	20%	=3	20%	=3	20%	=3
COMBINED NUMBER OF FAMILY MEMBERS OF CONSUMER AND CONSUMERS	50%	=6	50%	=6	50%	=7
BOARD OF SUPERVISORS	1	=1.0	1	=1.0		= 1.0
VETERAN OR VETERAN ADVOCATE	<b>1</b>	<b>=1.0</b>	<b>1</b>	<b>=1.0</b>		<b>=1.0</b>
	<b>14 Members:</b>		<b>15 Members:</b>			
CONSUMER	20%	=3	20%	=3		
FAMILY MEMBER OF CONSUMER	20%	=3	20%	=3		
COMBINED NUMBER OF FAMILY MEMBERS OF CONSUMER AND CONSUMERS	50%	7	50%	=3		
BOARD OF SUPERVISORS	1	=1.0	1	=1.0	1	=1.0
VETERAN OR VETERAN ADVOCATE	1	=1.0	1	=1.0		



---

## **PART II: SECTION 8**

---

Established: July 20, 1993; Resolution No. 93-82  
Amended: July 5, 1994; Resolution No.  
94-69 Amended: January 10, 1995;  
Resolution No. 95-6 Amended: August 23,  
2005; Resolution No. 05-145  
Amended: January 29, 2008; Resolution No. 05-145  
Amended: June 16, 2009; Resolution 09-71  
December 7, 2010; Resolution No. 2010-150  
September 25, 2012; Resolution No. 2012-139  
Amended: September 12, 2017; Resolution No. 2017-139  
Amended: \_\_\_\_\_; Resolution No. \_\_\_\_

### **BYLAWS OF THE NAPA COUNTY MENTAL HEALTH BOARD**

#### **ARTICLE I - NAME**

The name of this Board shall be the Napa County Mental Health Board ("Mental Health Board").

#### **ARTICLE II - AUTHORITY**

The authority of the Napa County Mental Health Board is established pursuant to the Bronzan-McCorquodale Act which may be found at Part 2 of Division 4.7 of the California Welfare and Institutions Code (commencing at section 5600 et seq.).

#### **ARTICLE III - PURPOSE**

The purposes of the Mental Health Board are as follows:

1. Review and evaluate the county's mental health needs, services, facilities and special problems.
2. Review any county agreements entered into pursuant to Section 5650.
3. Advise the Napa County Board of Supervisors and the Napa County Mental Health Director as to any aspect of the county's mental health program.
4. Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process.
5. Submit an annual report to the Napa County Board of Supervisors on the needs and performance of the mental health system of Napa County.
6. Review and make recommendations on applicants for appointment of the Napa County Director of Mental Health Services. The Mental Health Board shall be included in the selection process prior to the vote of the Napa County Board of Supervisors.

---

## PART II: SECTION 8

---

7. Review and comment on Napa County's performance outcome data and communicate its findings to the California Mental Health Planning Council.
8. Assess the impact of the realignment of services from the state to Napa County on services delivered to clients and on the local community.
9. Perform such additional duties as may be assigned to the Mental Health Board by the Napa County Board of Supervisors.

### ARTICLE IV - MEMBERS OF MENTAL HEALTH BOARD

1. Number of Members of the Board. There shall be 15 members of the Mental Health Board. All members shall be voting members. The members shall consist of those individuals appointed by the Napa County Board of Supervisors to the Mental Health Board. A quorum shall be one person more than one-half of the appointed members. Quorum is defined in accordance with California Welfare & Institutions Code Section 5604.5 (c).
2. Direction of the Mental Health Board Required. The activities and affairs of individual members of the Mental Health Board, acting as Board members, shall be conducted, and powers exercised, by and under the direction of the Mental Health Board and these Bylaws.
3. Terms of Office. Terms for each member of the Mental Health Board shall be three years. Members shall be limited to two consecutive three year terms unless waived by a majority vote of the Napa County Board of Supervisors; provided, however, members serving on July 11, 2005, may be appointed to two additional three year terms without requiring a waiver from the Board of Supervisors. The foregoing provision for members serving on July 11, 2005 shall sunset on December 31, 2012.
4. Compensation. No member shall be compensated for duties performed as a member of the Mental Health Board. Notwithstanding the previous sentence, a member may be reimbursed for the actual costs of attending meetings, conferences or similar gatherings if attendance at the meeting, conference or similar gathering is approved in advance in writing by the Mental Health Board Chair and the Napa County Mental Health Director.
5. Requirements Applicable to all Members. A member of the Mental Health Board must:
  - a. Be appointed by the Napa County Board of Supervisors.
  - b. Take the Oath of Office administered by the Clerk of the Napa County Board of Supervisors.
  - c. Serve on at least one Committee or Work Group of the Mental Health Board or serve as a Mental Health Board representative on a designated local, regional or

---

## PART II: SECTION 8

---

state committee/commission or professional/service organization as approved or excused by the Executive Committee for good cause shown.

- d. Maintain a satisfactory meeting attendance record to Mental Health Board meetings and other assignments as defined in Article XI of these Bylaws.
- e. Comply with all applicable regulations of the Fair Political Practices Commission, including, but not limited to, preparing and filing FPPC Form 700, if required, within 30 days of appointment and annually prior to April 1<sup>st</sup> of each year.
- f. Keep any confidential information obtained while performing duties as a Mental Health Board member confidential.
- g. Participate in site visits of a mental health facility or program, once per year, unless excused by the Executive Committee.

### ARTICLE V - QUALIFICATIONS OF MEMBERS

1. Qualification of Members. The members of the Mental Health Board shall be composed of the following:

- a. One member of the Napa County Board of Supervisors.
- b. At least one veteran or veteran advocate.
- c. At least fifty percent of the Board membership shall be consumers, who are receiving or have received mental health services, or their family members as defined in exhibit A.
- d. At least twenty percent of the Board membership shall be consumers.
- e. At least twenty percent of the Board shall be family members of consumers.
- f. Any members who are not consumers or family members of consumers shall be individuals who are interested and concerned citizens from the general public.

The composition of the Mental Health Board should reflect the ethnic diversity of the consumer population and the demographics of the county as a whole to the extent feasible.

2. Residents of the County Required; Exceptions. Members appointed should be residents of Napa County if possible. If it is not possible to secure membership as specified from among persons who reside in the county, the Napa County Board of Supervisors may substitute representatives of the public interest in mental health who are not full-time or part-time employees of county mental health service, the State Department of Mental Health, or on the staff of, or a paid member of the governing body of, a mental health

---

## PART II: SECTION 8

---

contract agency. However, pursuant to Welfare and Institutions Code Section 5604(3)(d)(1) and (2) Consumer Members may be employed by county mental health services or a mental health contract agency if they have no interest, influence, or authority over any financial or contractual matter concerning the employer. That member shall abstain from voting on any financial or contractual issue concerning his or her employer that may come before the board.

3. Individuals Disqualified From Serving. The following individuals are disqualified from serving on the Napa County Mental Health Board:

No member of the Mental Health Board or his or her spouse shall be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Mental Health, or an employee of, or a paid member of the governing body of, a mental health contract agency. However, pursuant to Welfare and Institutions Code Section 5604(3)(d)(1) and (2) Consumer Members may be employed by county mental health services or a mental health contract agency if they have no interest, influence, or authority over any financial or contractual matter concerning the employer. That member shall abstain from voting on any financial or contractual issue concerning his or her employer that may come before the board.

### ARTICLE VI - RECRUITMENT OF MEMBERS

1. Responsibility for Recruitment. Recruitment of prospective members of the Napa County Mental Health Board shall be the responsibility of individual members of the Napa County Board of Supervisors and members of the Mental Health Board. An effort will be made to recruit mental health professionals as well as individuals who have experience and knowledge of the mental health system.
2. Board of Supervisors Recruitment. Board Supervisors are encouraged to nominate individuals from their respective district to facilitate wider representation across Napa County, for a total of five Mental Health Board members to be nominated and appointed by the Board of Supervisors. The Board of Supervisors may accept more than one nomination from each district based on interest and willingness of community members to serve.
3. Recruitment by the Mental Health Board. Interview and Recommendation. All applicants, except those nominated directly by the Board of Supervisors, shall initially be interviewed by at least two members of the Mental Health Board. Names of the applicants recommended shall be presented to the full Mental Health Board for its consideration. Those applicants recommended by the Mental Health Board shall then be referred to the Board of Supervisors with a recommendation they be appointed to the Napa County Mental Health Board.



**ARTICLE VII - MEETINGS**

1. Annual Meetings. There shall be a regular meeting, which shall constitute the annual meeting of the Mental Health Board, to be held on the second Monday of July of each year at which time the officers will present their reports, a meeting schedule will be adopted for the next twelve months, and elections held. If the second Monday of July falls on a Holiday, the meeting shall be held on the third Monday of July.
2. Regular Meetings. Other regular meetings of the Mental Health Board may be held at such time and place as is established by the annual meeting schedule.
3. Special Meetings. Special meetings, for any purpose or purposes related to the business of the Mental Health Board, may be called at any time by the Chair of the Board or by a majority of the Board members.
4. Notice of Annual and Regular Meetings. Notice of the Annual Meeting shall be given to each member of the Mental Health Board by one of the following methods: (a) by personal delivery of written notice; (b) by first class mail, postage prepaid; (c) by fax transmittal or e-mail of written notice; or (d) by telephone, either directly to the member or to a person at the member's office who would reasonably be expected to communicate that notice promptly to the member. Notices sent by first class mail shall be deposited in the U.S. Mail not less than five days before the time set for the meeting. Notice given by personal delivery, fax, e-mail, or telephone shall occur at least 72 hours before the time set for the meeting. All such notices shall be given or sent to the members address or telephone number as shown on the records of the Board.
5. Notice of Special Meeting. A special meeting may be called at any time by the Chair of the Mental Health Board or by a majority of the Mental Health Board members. Notice of special meetings shall be given by delivering written notice to each member of the Mental Health Board and to each local newspaper of general circulation and radio or television station that has requested notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the Board. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the Board a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

**ARTICLE VIII - OFFICERS**

1. Officers of the Board. The officers of the Board shall consist of a Chair and Vice-Chair.

---

## PART II: SECTION 8

---

2. Election of Officers. The offices of Chair and Vice-Chair shall be elected at the annual meeting of the Board and those elected shall serve for a term of at least one but not more than two consecutive years. It is the non-binding policy of the Board that the Vice-Chair will be the person that will normally be elected to serve as Chair in the year following service as Vice-Chair.

If the Chair's office is vacated prior to the end of the one year term, the Vice Chair shall assume the Chair's office and a replacement Vice Chair nominated at the next regularly scheduled meeting. The election vote for the new Vice Chair shall be held at the next regularly scheduled meeting following the nomination meeting.

### ARTICLE IX - DUTIES OF OFFICERS AND OTHER BOARD POSITIONS

Duties of the Officers of the Board. The duties of the officers of the Mental Health Board shall be as follows:

1. Chair. It shall be the duty of the Chair to prepare the agenda for and preside over all regular and special meetings of the Board; to appoint Committee and Work Group chairs; coordinate existing Committees and Work Groups; serve as an ex-officio member of all Committees and Work Groups; call special meetings of the Board when necessary; and be in regular consultation with the Napa County Director of Mental Health.
2. Vice-Chair. It shall be the duty of the Vice-Chair to assist the Chair in the execution of his or her office and to act in his or her stead during an absence. In case of resignation or death of the Chair, the Vice-Chair shall perform such duties as are imposed on the Chair until such time as the Mental Health Board elects a new Chair.
3. Upon the expiration of his or her term of office, or in the case of resignation, each Officer shall turn over to his or her successor, without delay, all records books and other materials pertaining to the office.

Duties of Other Board Positions. The duties of other positions shall be as follows:

4. Secretary. The Mental Health Board shall be supported by a Secretary. The Director of Napa County Health & Human Services Agency or her/his representative shall designate staff to serve as Secretary to the Board. It shall be the duty of the Secretary to keep a record of all annual, regular and special meetings of the Mental Health Board. The Secretary shall perform such secretarial duties and responsibilities as defined by mutual agreement of the Chair and the Director of Mental Health.

### ARTICLE X - COMMITTEES

1. The following Standing Committee is created:

---

## PART II: SECTION 8

---

An Executive Committee. The Executive Committee, will be composed of the current and past Chair, Vice Chair, and three Members-at-Large. The term of Executive Committee members shall coincide with their terms as members of the Board. The Executive Committee shall be responsible for the overall management of the activities and business of the Mental Health Board. This includes, but is not necessarily limited to, the following:

- a. Establishing and overseeing of Ad Hoc Committees and Work Groups; coordinating selection and implementation of site visits; approving Mental Health Board agendas; drafting policies and procedures for Mental Health Board approval; and selecting Work Group and Committee chairs on the recommendation of the Mental Health Board Chair.
  - b. Selection of Members-at-Large. Any member of the Mental Health Board, other than the Chair, Vice-Chair and past Chair, can potentially be a Member-at-Large. In July of each year, the Chair, Vice-Chair and past Chair, will make recommendations for three Members-at-Large to be approved by vote of the Mental Health Board each August. Prior to the vote on these recommendations, the floor will be open to Board members for additional nominations. Members-at-Large will attend and participate in Executive Committee meetings. Members-at-Large will have voting rights during Executive Committee meetings.
2. Standing Committees may be established or eliminated by the Mental Health Board. Standing Committees have ongoing responsibilities concerning a particular subject matter that is not time limited. Committees and Work Groups will conduct meetings in accordance with the Brown Act (Government Code Section 54950 et seq.) to the extent applicable.

### ARTICLE XI – ATTENDANCE & VACANCIES ON THE BOARD

1. All Mental Health Board members are required to contact the Mental Health Board Chair or Secretary prior to a meeting if they are unable to attend. Failure to do so will result in an unexcused absence.
2. A Board member may be deemed by the Executive Committee to have ceased to discharge the duties of a Mental Health Board member based on attendance and/or performance of other assigned duties. If after review, the Executive Committee determines the member should be removed, a recommendation will be made to the full Mental Health Board. Upon a two thirds vote the Mental Health Board may recommend the removal of the member to the Board of Supervisors.
3. If a vacancy occurs due to the occurrence of any of the events described in section 1770 of the California Government Code, the Secretary shall advise the Board and the Executive Committee will commence the recruitment for a replacement.

**ARTICLE XII - RESIGNATIONS AND LEAVES OF ABSENCE**

1. Any member may resign effective upon giving written notice to the County Executive Office with a copy to the Chair, the Vice Chair or the Secretary of the Mental Health Board. A notice which specifies a later time shall be effective upon the date of the resignation set forth in said notice.
2. A Board member, who does not wish to resign and who needs leave from board commitments, may request a leave of absence for personal reasons. The request must be submitted in writing to the Chair of the Mental Health Board. The Executive Committee may approve his or her request for a period of time not to exceed 6 months. A member on leave may request an extension in writing to the Chair and such extension is subject to the approval of the Executive Committee. The request for extension will be reviewed by the Executive Committee as to the reasonableness of the extension and the overall impact on the Board in carrying out its responsibilities.

**ARTICLE XIII - MEETINGS, QUORUMS, AND RULES OF ORDER**

1. The Mental Health Board shall meet monthly or as scheduled on the Board's approved annual calendar of meetings. A quorum shall consist of one person more than one-half of the appointed members. Members who are on an approved leave of absence will not count toward establishing a quorum.
2. Meetings of the Mental Health Board shall be governed by The Standard Code of Parliamentary Procedure (Sturgis 4th Edition) as modified to allow open participation of the Chair and to comply with the Brown Act.

**ARTICLE XIV - AMENDMENTS TO BYLAWS**

These bylaws may be amended at any meeting of the Mental Health Board by a two-thirds vote of the membership of said Board when reasonable advance notice has been given as described below.

The Mental Health Board shall use the following procedure when amending the Bylaws.

- a. Proposals for change shall be noticed on the Mental Health Board agenda and a written copy sent to all Napa County Mental Health Board members a minimum of five days prior to the meeting date on which proponents wish consideration and a vote on the change.
- b. The Mental Health Board must approve the change by a two-thirds majority of those members in attendance at a regular or special meeting at which a quorum is present.
- c. The change, as approved, is to be signed and dated by the Mental Health Board Chair.

---

**PART II: SECTION 8**

---

- d. The changed and revised copy of the Bylaws is then forwarded to the Napa County Board of Supervisors for their review and approval/disapproval and signature by the Board of Supervisors Chair or designated representative.
- e. A copy of approved changed Bylaws is to be provided to each Napa County Mental Health Board member at the next regularly scheduled meeting.
- f. An original copy, signed by the Mental Health Board Chair and the Board of Supervisors, of the approved changed Bylaws is to be filed with the Mental Health Board Secretary. Additionally, an appropriate historical log of all Bylaw changes and the date of the change are to be maintained by the Mental Health Board Secretary. The historical log is to be distributed to all Mental Health Board members whenever "Proposals for Changes" are distributed.
- g. All members will be provided with a set of the current Mental Health Board Bylaws and Policies and Procedures.

**ARTICLE XV - POLICIES AND PROCEDURES**

The Mental Health Board may establish Policies and Procedures on matters not covered by these Bylaws.

Napa County Mental Health Board:

By: \_\_\_\_\_  
[Robert Palmer](#), Chair

Date of Mental Health Board Approval: \_\_\_\_\_

**Deleted:** John Pearson

## PART II: SECTION 8

### EXHIBIT "A"

Section 5604 of the California Welfare and Institutions Code provides in pertinent part:

5604 (a)(I) Each community mental health service shall have a mental health board consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing body except that boards in counties with a population of less than 80,000 may have a minimum of five members. One member of the board shall be a member of the local governing board. Any county with more than five supervisors shall have at least the same number of members as the size of its board of supervisors. Nothing in this section shall be construed to limit the ability of the governing body to increase the number of members above 15. Local mental health boards may recommend appointees to the county supervisors. Counties are encouraged to appoint individuals who have experience and knowledge of the mental health system. The board membership should reflect the ethnic diversity of the client population in the county.

(2) Fifty percent of the board membership shall be consumers or the parents, spouse, sibling, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers.

#### PERCENTAGE TABLES

	11 Members:		12 Members:		13 Members:	
CONSUMER	20%	=3	20%	=3	20%	=3
FAMILY MEMBER OF CONSUMER	20%	=3	20%	=3	20%	=3
COMBINED NUMBER OF FAMILY MEMBERS OF CONSUMER AND CONSUMERS	50%	=6	50%	=6	50%	=7
BOARD OF SUPERVISORS	1	=1.0	1	=1.0		= 1.0
VETERAN OR VETERAN ADVOCATE	<u>1</u>	<u>=1.0</u>	<u>1</u>	<u>=1.0</u>		<u>=1.0</u>
	14 Members:		15 Members:			
CONSUMER	20%	=3	20%	=3		
FAMILY MEMBER OF CONSUMER	20%	=3	20%	=3		
COMBINED NUMBER OF FAMILY MEMBERS OF CONSUMER AND CONSUMERS	50%	7	50%	=3		
BOARD OF SUPERVISORS	1	=1.0	1	=1.0	1	=1.0
VETERAN OR VETERAN ADVOCATE	<u>1</u>	<u>=1.0</u>	<u>1</u>	<u>=1.0</u>		

Formatted Table

Formatted: Left, Font Alignment: Auto

Formatted: Font: Bold

Formatted: Centered

---

**PART II: SECTION 8**

---



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0320

**TO:** Board of Supervisors

**FROM:** Jennifer Palmer, Director of Housing & Homeless Services

**REPORT BY:** Alex Carrasco, Staff Service Analyst

**SUBJECT:** Agreement with Kristin Lowell, Inc. for the annual County Service Area No. 4 Engineer's Report

### **RECOMMENDATION**

Director of Housing & Homeless Services requests approval of and authorization for the Chair to sign Agreement No. 230348B with Kristin Lowell, Inc. for a maximum of \$5,800 for the term March 14, 2023 to March 30, 2024 for the annual County Service Area No. 4 (CSA No. 4) Engineer's Report.

### **EXECUTIVE SUMMARY**

The proposed action will obtain the services of an assessment engineer required by law for the preparation of an Engineer's Report for Fiscal Year 23/24 and FY 24/25. This is a prerequisite action that will allow the Board to take the necessary actions to determine and levy the amount of the annual assessment on owners of planted vineyard acreage within County Service Area No. 4 (CSA No. 4) to provide funding for farmworker housing.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Fund 2810 County Service Area No.4
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Consequences if not approved:	The farmworker centers would lack the funding to operate.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** The proposed action is not a project as defined by 14 California



Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Pursuant to Government Code Section 25210.74, the Napa County Board of Supervisors each year "shall either adopt or revise the estimate" of money required for the purpose of providing and the extended service of farmworker housing within County Service Area No. 4 (CSA No. 4) for the succeeding fiscal year. The CSA No. 4 assessments for Fiscal Year 2023-2024 also needs to be updated in accordance with the requirements of Proposition 218. Staff recommends Kristin Lowell due to her vast experience in preparing the Engineer's Report each year and working with the CSA No. 4 assessment.

The professional services agreement with Kristin Lowell, Inc. specifies that she will prepare the Engineer's Report describing each parcel of property subject to the assessment and the amount of the assessment pertaining to each parcel. Ms. Lowell will also assist the County in updating its database of the existing planted vineyard acreage within CSA No. 4. Based upon the filed Engineer's Report, staff will request that the Board hold the required public hearings and determine the actual assessments for each parcel for Fiscal Year 2023-2024. The levied assessments will then be submitted to the County Auditor-Controller's office in a timely manner to be included on the property tax bills for the affected parcels.

**NAPA COUNTY AGREEMENT NO. \_\_\_\_\_**

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and KRISTIN LOWELL, INC., a California corporation, whose mailing address is 1420 E. Roseville Parkway, Suite 140-342, Roseville, California, 95661, hereinafter referred to as “CONTRACTOR.”

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to prepare the Engineer’s Report required for the levy of assessments pertaining to County Service Area No. 4 for Fiscal Year 2023-2024, and

**WHEREAS**, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein;

**NOW, THEREFORE**, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the terms and conditions set forth herein:

**TERMS**

1. **Term of the Agreement.** The term of this Agreement shall commence on the date entered above, and shall expire on March 30, 2024, 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 CONTRACTOR to COUNTY 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). The term of this Agreement shall automatically renew for one additional year on March 30, 2024, on the same terms and conditions, unless either party gives the other party written notice of intention not to renew no later than February 28, 2024.

2. **Scope of Services.** CONTRACTOR shall prepare the Engineer’s Report required for the levy of assessments pertaining to County Service Area No. 4 for Fiscal Year 2023-2024, as further set forth in Exhibit “A,” attached hereto and hereby incorporated by reference. If this Agreement is renewed pursuant to Paragraph 1, CONTRACTOR shall provide the same services for Fiscal Year 2024-2025.

3. **Compensation.**

(a) Rates. In consideration of CONTRACTOR's fulfillment of the Scope of Services, COUNTY shall pay CONTRACTOR a total of Five Thousand Eight Hundred Dollars (\$5,800), as broken down by task shown in Exhibit "B," attached hereto and incorporated by reference herein.

(b) Expenses. Travel and other expenses are included in the rates set forth in Exhibit "B."

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall not exceed Eleven Thousand Six Hundred Dollars (\$11,600) if this Agreement is renewed pursuant to Paragraph 1; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered.

4. **Method of Payment.**

(a) Invoices. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR'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 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. CONTRACTOR shall submit invoices not more often than monthly to the Deputy County Executive Officer ("Housing 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.

(b) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Housing Director upon request in a form 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 CONTRACTOR within the State of California.

5. **Independent Contractor.** CONTRACTOR shall perform this Agreement as an independent contractor. CONTRACTOR and the officers, agents and employees of CONTRACTOR are not, and shall not be deemed, COUNTY employees for any purpose, including workers' compensation and employee benefits. CONTRACTOR shall, at CONTRACTOR's own risk and expense, determine the method and manner by which duties imposed on CONTRACTOR by this Agreement shall be performed; provided, however, that COUNTY may monitor the work performed by CONTRACTOR. COUNTY shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including,

but not limited to amounts required to be withheld for state and federal taxes. As between the parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONTRACTOR, including the agents or employees of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

7. **Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability insurance. CONTRACTOR 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:

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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 CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence.

(c) Certificates. All insurance coverages referenced in paragraph 7(b), 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 CONTRACTOR with the Housing Director prior to commencement of performance of any of CONTRACTOR's duties; 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, other termination, or material change, 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. 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 comprehensive automobile liability insurance coverage referenced in paragraph 7(b)(3) CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation, and the certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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. Upon request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

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

(a) In General. To the fullest extent allowed by law, CONTRACTOR 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 CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability,

claims, actions, losses, injuries, damages or expenses arising from the sole negligence or willful misconduct of COUNTY or its officers, agents, employees, volunteers, representatives, or other contractors or their subcontractors. 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. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR'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). COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

10. **Other Termination.** This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party specifying the effective date thereof at least thirty days prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

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

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a party under Paragraph 10:

(1) To the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall

subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof.

(b) CONTRACTOR 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 CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or was otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

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.

COUNTY

Housing & Homeless Services  
2751 Napa Valley Corporate Dr. Bld. B  
Napa, CA 94558

CONTRACTOR

Kristin Lowell, Inc.  
1420 E. Roseville Parkway #140-342  
Roseville, CA 95661

14. **Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR 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 COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" which is found in the Napa County Policy Manual Part I, Section 37K.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is found in Napa County Policy Manual Part I, Section 37U.

#### 15. **Confidentiality.**

(a) **Maintenance of Confidential Information.** Confidential information is defined as all information disclosed to CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of COUNTY, expressed through its Housing Director. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

#### (b) **Protection of Personally Identifiable Information and Protected Health Information.**

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.



(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of COUNTY's Protected Information, or its unauthorized access to or disclosure of COUNTY's Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

**16. No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR 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 CONTRACTOR to secure such authorization in writing in advance of performing any of the 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.** CONTRACTOR 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, CONTRACTOR 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. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

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

20. **Taxes.** CONTRACTOR 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records for at least seven (7) years after COUNTY makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** CONTRACTOR and COUNTY 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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 CONTRACTOR, although holding a "designated" position as a 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 authorizing its Chair to execute this Agreement on its behalf, COUNTY's Board of Supervisors hereby determines in writing on behalf of COUNTY that CONTRACTOR 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. **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.

28. **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.

*[remainder of page intentionally blank]*

**IN WITNESS WHEREOF**, this Agreement is executed by COUNTY, acting by and through its Chair of the Board of Supervisors, and by CONTRACTOR through its duly authorized officer.

KRISTIN LOWELL, INC.

By: Kristin Lowell  
President and Secretary

NAPA COUNTY, a political subdivision of  
the State of California

By: \_\_\_\_\_  
BELIA RAMOS, Chair  
Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u> Interim County Counsel</p> <p>Date: <u>February 14, 2023</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
---	--	--

## **EXHIBIT "A"**

### **SCOPE OF WORK**

#### **I. DESCRIPTION OF SERVICES**

CONTRACTOR shall provide the following services for Fiscal Year 2023-2024.

1. Assist the COUNTY in updating their database of existing planted vineyard acreage within the CSA#4 area.
2. Calculate each parcel's assessment. The assessment for each parcel is in direct relationship to the benefit each parcel receives from the farmworker housing. The relative responsibility will be based on the benefit nexus between the amount of special benefit each parcel receives from farmworker housing relative to the amount of benefit all other parcels receive.
3. Prepare the CSA#4 Farmworker Housing Assessment District Engineer's Report.
4. Submit the assessments to the County Auditor's office for them to include the assessments on the property tax bills.
5. Attend (2) meetings as follows: one meeting with the Board of Supervisors to approve the Resolution of Intention and the second meeting when the Board of Supervisors holds the public hearing and tabulates the assessment ballots.

If the Agreement is renewed for one additional year, CONTRACTOR will repeat these services for Fiscal Year 2024-2025, in accordance with the schedule below.

#### **II. SCHEDULE**

CONTRACTOR shall submit:

- Draft Engineer's Report no later than April 12th.
- Final Engineer's Report no later than May 1st.
- The assessment rolls to the County Auditor's office no later than August 20th.

**III. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.** As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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. 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.

## **EXHIBIT "B"**

### **COMPENSATION AND EXPENSE REIMBURSEMENT**

Task 1	Update Property Database	16 hrs.	\$1,600.00
Task 2	Calculate Assessments	12 hrs.	\$1,200.00
Task 3	Prepare Engineer's Report	16 hrs.	\$1,600.00
Task 4	Submit Assessment Roll	10 hrs.	\$1,000.00
Task 5	Attend meetings	4 hrs.	\$ 400.00
<b>Subtotal:</b>		<b>58 hrs.</b>	<b>\$5,800.00</b>



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0432

---

**TO:** Board of Supervisors  
**FROM:** David Morrison, Interim County Executive Officer  
**REPORT BY:** Jennifer Palmer, Director of Housing & Homeless Services  
**SUBJECT:** Affordable Housing Budget Adjustment

---

### **RECOMMENDATION**

Director of Housing & Homeless Services requests approval of a Budget Adjustment for increased expenses in consulting services, computer equipment and software, and interfund expenditures, offset by mitigation fee revenue (Org 2080000); transfer appropriations originally budgeted from ARPA to buildings and improvement expense (ADU program Org 2080050) to instead be Long Term Loans (Affordable Housing program Org 2080010); and transfer expense appropriations for transfers out to the administrative area of the fund (org 2080000) (4/5 vote required):

1. Increase Consulting Services Appropriation \$5,000 (Fund 2080, Org 2080000, Obj 52310);
2. Increase Computer Equipment/Accessories Appropriation \$2,500 (Fund 2080, Org 2080000, Obj 53410);
3. Increase Computer Software/Licensing Appropriation \$2,000 (Fund 2080, Org 2080000, Obj 53415);
4. Increase Interfund Expenditure Appropriation \$500 (Fund 2080, Org 2080000, Obj 54900);
5. Increase Mitigation Fee-Commercial Revenue \$10,000 (Fund 2080, Org 2080000, Obj 46710);
6. Increase Long Term Loan Appropriation \$2,000,000 (Fund 2080, Org 2080010, Obj 56500);
7. Increase Transfers-In Revenue \$2,000,000 (Fund 2080, Org 2080010, Obj 48200);
8. Decrease Buildings and Improvements Appropriation \$2,000,000 (Fund 2080, Org 2080050, Obj 55300);
9. Decrease Transfers-In Revenue \$2,000,000 (Fund 2080, Org 2080050, Obj 48200);
10. Increase Intrafund Transfers Out Appropriation \$88,000 (Fund 2080, Org 2080000, Obj 57900);
11. Increase Transfers-In Revenue \$88,000 (Fund 2080, Org 2080000, Obj 48200);
12. Decrease Intrafund Transfers Out Appropriation \$88,000 (Fund 2080, Org 2080050, Obj 57900); and



13. Decrease Transfers-In Revenue \$88,000 (Fund 2080, Org 2080050, Obj 48200).

### **EXECUTIVE SUMMARY**

Affordable Housing (Fund 2080/Orgs 2080000 & 2080010 & 2080050) had increased expenses in consulting services, computer equipment, computer software and interfund charges, along with increased revenue in commercial mitigation fees; \$2,000,000 was originally budgeted as transfer from ARPA to buildings and improvement expense (in ADU program) which instead will be to Long Term Loans (Affordable Housing); \$88,000 for staff time expense (staff expense in 1021500) is being adjusted to reflect the org number for the administrative area of the fund (2080000). No additional expense authority needed in Org 1021500 for this action.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Affordable Housing Fund 2080
Is it Mandatory or Discretionary?	Discretionary
Is the general fund affected?	No
Future fiscal impact:	No future impact
Consequences if not approved:	Budget adjustment necessary for current year operations
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: Click or tap here to enter text.

### **BACKGROUND AND DISCUSSION**

Affordable Housing (Fund 2080/Orgs 2080000 & 2080010 & 2080050) had increased expenses in consulting services, computer equipment, computer software and interfund charges, along with increased revenue in commercial mitigation fees; \$2,000,000 was originally budgeted as transfer from ARPA to buildings and improvement expense (in ADU program) which instead will be to Long Term Loans (Affordable Housing); \$88,000 for staff time expense (staff expense in 1021500) is being adjusted to reflect the org number for the administrative area of the fund (2080000). No additional expense authority needed in Org 1021500 from this action.





# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0428

---

**TO:** Board of Supervisors

**FROM:** Christine Briceño, Director of Human Resources

**REPORT BY:** Kevin Lemieux, Staff Services Manager

**SUBJECT:** Adoption of a Resolution Amending the Departmental Allocation List for Multiple Divisions the Health and Human Services Agency

---

### **RECOMMENDATION**

Director of Human Resources and Director of Health and Human Services Agency (HHSA) request adoption of a Resolution amending the Departmental Allocation List for multiple divisions of the Health and Human Services Agency, with a net increase of 1.5 FTE, and no impact to the County General Fund.

### **EXECUTIVE SUMMARY**

If approved, this request adds one 1.0 full-time equivalent (FTE) Staff Services Manager to the Child Welfare Services Division of the Health and Human Services Agency (HHSA). The request also adds one 1.0 full-time equivalent (FTE) Staff Services Analyst I/II - Limited Term and one 1.0 FTE Cook II, while deleting two 0.75 FTE Cook II positions from the Operations Division of HHSA, with all actions effective March 14, 2023.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No

Future fiscal impact:	The cost of salary and benefits for the requested Child Welfare Services Staff Services Manager position for the remainder of the fiscal year is approximately \$23,452. The annual cost of salary and benefits is approximately \$187,586. The cost of salary and benefits for the requested Operations Staff Services Analyst I/II - Limited Term position for the remainder of the fiscal year is approximately \$33,588. The annual cost of salary and benefits is approximately \$134,352. The annualized savings for the requested Operations Cook II actions is approximately \$57,959.
Consequences if not approved:	The County will not have adequate staffing levels for multiple Health and Human Services Agency functions, including Child Welfare Services program development, support of critical human resources and payroll processes, and meal preparations for clients.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

The requested Staff Services Manager Position in the Child Welfare Services Division of the Health and Human Services Agency (HHSA) is needed to provide program development and oversight of the Napa County Comprehensive Prevention Plan, per the newly implemented Family First Prevention Services Act of 2018. Additionally, the Staff Services Manager will also provide direct supervision to newly implemented Child Welfare Services systems and programs such as policy and procedure development and training and staff development. Lastly, the Staff Services Manager will spearhead oversight and development of quality management and quality improvement efforts with a targeted focus on child abuse prevention.

The Operations Division of HHSA performs critical administrative functions in support of human resources transactions and payroll processes. These responsibilities include the credentialing and privileging of the more than 130 licensed or certificated classifications, and managing administrative processes for hiring, onboarding, performance management, and employee actions. The integrity of these processes depends on a team that includes Staff Services Analysts monitoring, analyzing, and operationalizing policies and procedures governed by various State and Federal regulatory bodies. Due to an extended leave of absence a Staff Services Analyst I/II - Limited Term position is requested through 4/30/2024 to backfill.

The Operations Division of HHSA also makes meals available for clients who are in need and participate in an HHSA program. This client meal program supports the health and social well-being of clients engaged in services and treatment programs. HHSA contracts with the Salvation Army to fully operate the customer service side of the on-site kitchen, Provisions Café, which provides these meals. To support the back of the house operations including the cooking, food preparation, cleaning and maintenance, HHSA is currently allocated two separate Cook II positions, each of which are allocated at 0.75 FTE. If approved, this request

deletes these two 0.75 FTE positions and replaces them with one 1.0 Cook II FTE, resulting in a net decrease of 0.5 FTE.

Therefore, the Director of Human Resources and the Director of Health and Human Services Agency request adoption of a Resolution amending the Departmental Allocation List for multiple divisions of the Health and Human Services Agency, effective March 14, 2023, with a net increase of 1.5 FTE, and no impact to the County General Fund.



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0429

---

**TO:** Board of Supervisors

**FROM:** Christine Briceño, Director of Human Resources

**REPORT BY:** Kevin Lemieux, Staff Services Manager

**SUBJECT:** Adoption of a Resolution Amending the Table and Index of Classes and the Departmental Allocation List for the District Attorney's Office

---

### **RECOMMENDATION**

Director of Human Resources and District Attorney request adoption of a Resolution amending the Table and Index of Classes and the Departmental Allocation List for the District Attorney's Office, by adding one 1.0 full-time equivalent (FTE) DA Media Investigative Technician, effective March 14, 2023, with a net increase of one FTE, and an impact to the County General Fund.

### **EXECUTIVE SUMMARY**

If approved, this request amends the Table and Index of Classes and Departmental Allocation List by adding one 1.0 FTE DA Media Investigative Technician to monitor and extract evidence from a variety of social media platforms, as they relate cases, ensuring screen shots are captured and added to evidence for prosecutions.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The District Attorney's Office has an immediate need to monitor and extract multiple forms of digital evidence for case prosecutions. The requested position will also be able to digitally archive a historical backlog of outdated forms of media, like VHS and cassette tapes.
Is the general fund affected?	No

Future fiscal impact:	The increased cost of salary and benefits for DA Media Investigative Technician position is approximately \$28,081 for the remainder of the 2022-2023 Fiscal Year. The increased cost of salary and benefits for future fiscal years is approximately \$112,327 and will be budgeted accordingly.
Consequences if not approved:	The District Attorney's office would not be able to process and archive critical digital evidence in a timely and organized fashion.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

If approved, the proposed DA Media Investigative Technician will be responsible for extracting evidence from a variety of forms of digital media, including online social media sources, law enforcement agencies' body worn cameras, and dash cams for case prosecution. This extends to footage obtained in the community, including sources such as "Ring" doorbell cameras. This media will assist professional and investigatory staff with the preparation of evidence and coordination of courtroom presentations for a variety of hearings. The requested DA Media Investigative Technician will prepare and collate the multiple forms of digital evidence into one cohesive format to allow management and attorneys to present at community forums, to the court, and to the jury.

Due to the confidential nature of District Attorney's Office operations, the proposed DA Media Investigative Technician assignments must be completed within the department by staff who have completed full background checks. These duties cannot be sent to a third party for conversion or preparation for editing into trial format.

Therefore, the Director of Human Resources and the District Attorney request adoption of a Resolution amending the Table and Index of Classes and the Departmental Allocation List for the District Attorney's Office, by adding one 1.0 full-time equivalent (FTE) DA Media Investigative Technician, effective March 14, 2023, with a net increase of one FTE, and an impact to the County General Fund.



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0430

---

**TO:** Board of Supervisors  
**FROM:** Christine Briceño, Director of Human Resources  
**REPORT BY:** Kevin Lemieux, Staff Services Manager  
**SUBJECT:** Adoption of a Resolution Amending the Table and Index of Classes

---

### **RECOMMENDATION**

Director of Human Resources requests adoption of a Resolution approving an adjustment to the Engineering Manager classification salary to avoid compaction, and deleting the defunct Engineering MGR - PBES classification, effective December 22, 2022.

### **EXECUTIVE SUMMARY**

Human Resources contracted with Ralph Andersen & Associates to conduct classification and compensation studies in late 2022. However, due to an administrative oversight, the Engineering Manager classification was not included in this action as a classification to adjust due to compaction with direct reports. If approved, the requested action resolves the compaction issue and deletes a defunct classification as well.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it currently budgeted?	Yes
Is it Mandatory or Discretionary?	Discretionary
Is the general fund affected?	No
Future fiscal impact:	The increased cost of salary and benefits for the remainder of Fiscal Year 2022-2023, as well as the increased annualized cost for this action, was reported at the December 13, 2022 Board of Supervisors meeting.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**



ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

In September 2022, the County contracted with Ralph Andersen and Associates to prepare an update to salary range recommendations and analysis for several classifications. Based on this update, multiple classifications were identified as requiring a salary range increase in order to remain competitive with comparable agencies.

On December 13, 2022, the Board approved equity increases to the agreed upon classifications, including Engineering Supervisor. Due to an administrative oversight, the Engineering Manager was not included, thereby creating compaction between the two classes. If approved, the requested action increases the salary grade to the Engineering Manager classification to the next highest level to avoid compaction with direct reports. This action also deletes a classification that is no longer used.

Therefore, the Director of Human Resources requests adoption of a Resolution approving an adjustment to the Engineering Manager classification salary to avoid compaction and deleting the defunct Engineering MGR - PBES classification, effective December 22, 2022.



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0362

---

**TO:** Board of Supervisors

**FROM:** Jon Gjestvang - Chief Information Officer - Information Technology Services

**REPORT BY:** Elena Guzman - Staff Services Analyst

**SUBJECT:** Sole Source Award to AMS.NET for Wireless Project Equipment, Labor and Software

---

### **RECOMMENDATION**

Chief Information Officer requests a waiver of competitive bidding requirement and sole source award to AMS.NET (pursuant to Napa County Code Section 2.36.090) for a maximum of \$106,147 for the term of March 14, 2023, through June 30, 2026, for the purchase of the following equipment, labor and licensing for the Countywide wireless internet service project:

#### 1. Flood Building:

- a. Meraki Cloud Managed Access Points for \$4,058 for three-year licensing and three Access Points; including \$1,150 labor for a maximum amount of \$5,208;
- b. Wireless Cabling for \$2,740 labor and \$824 materials for a maximum of \$3,564;

#### 2. Juvenile Hall:

- a. Meraki Cloud Managed Access Points for \$31,113 for three-year licensing and twenty-three Access Points; including \$6,550 labor for a maximum of \$37,663;
- b. Wireless Cabling for \$15,720 labor and \$4,933 materials for a maximum of \$20,653;

#### 3. Napa Sanitation:

- a. Meraki Cloud Managed Access Points for \$21,494 for three-year licensing and fifteen Access Points; including \$4,550 labor for a maximum \$26,044; and
- b. Wireless Cabling for \$9,960 labor and \$3,055 materials for a maximum of \$13,015.

**EXECUTIVE SUMMARY**

AMS.NET is the authorized Cisco vendor for the North Bay region and is Napa County's source for hardware and licensing purchases for all Cisco related products, including Cisco Meraki. The Meraki Enterprise license provides cloud-based centralized management, mobility and security across multiple Access Points allowing for network wide visibility and control. With the Meraki Enterprise licenses, the ITS Network Operations team will be able to continue to fulfill the requirements set forth in the County's strategic plan to have wireless access in County buildings.

Approval of today's requested action will allow for a waiver of competitive bidding requirement and sole source award to AMS.NET for the purchase of equipment, labor, and licensing for the wireless internet service projects at the County's Flood building, Juvenile Hall building and Napa Sanitization building. The software subscriptions are for the term of March 14, 2023, to March 14, 2026.

The license costs \$1,181 per Access Point per year for a one-year term or \$423 per Access Point per year for a three-year term. By committing to the three-year subscription for forty-one Access Points, the County will realize a total savings of \$93,234 when compared to the one-year subscription model.

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Information Technology Services
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Meraki Enterprise License will allow for a secure wireless network with centralized management and mobility across multiple Access Points. These licenses are integral to the County's network infrastructure and daily operations.
Is the general fund affected?	No
Future fiscal impact:	The Meraki Enterprise Licenses are expected to be paid under the current fiscal year. Once the three-year licensing term expires, these expenses will be budgeted in Fiscal Year 2026-2027 in the ITS Infrastructure and Operations subdivision.
Consequences if not approved:	If not approved, ITS Network Operations will not be able to continue to fulfill the requirement set forth in the County's strategic plan to have comprehensive wireless solution in County buildings.
County Strategic Plan pillar addressed:	Effective and Open Government

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

AMS.NET, Inc. (AMS.NET) is the vendor the County uses for its telephony software licenses, annual technical

support, and Cisco Voice Over Internet Protocol (VoIP) telephone system.

In addition to procuring software licenses through AMS.NET, the County has previously entered into a number of professional services agreements with AMS.NET over the past 4 years. On August 15, 2017, the Board of Supervisors approved Agreement 180085B for a total of \$75,460 with AMS.NET for custom configuration, purchase of equipment, installation, and training services needed to upgrade the County's VoIP telephone system. The Network Operations and Telephony subdivisions of ITS worked with AMS.NET to complete the VoIP system upgrade. This agreement expired on June 30, 2018.

On October 1, 2017, the Board of Supervisors approved Agreement 180141B for a total of \$35,000 with AMS.NET in order to provide the County with professional technical support and maintenance for the VoIP system and core network infrastructure. Due to the highly technical nature of the VoIP system, the Telephony staff occasionally needed assistance from AMS.NET with troubleshooting, repairs, and reconfigurations.

On September 25, 2018, the Board of Supervisors approved Agreement 190127B for a total of \$13,800 with AMS.NET for security camera integration services related to the Sheriff's Facility Security Camera Project, PW17-17. This project allowed for the integration of the security camera equipment's management software into the County's system, the migration of existing Milestone Enterprise servers, the building of a new server, and the addition of existing Enterprise cameras to the new server. This agreement expired on June 30, 2019.

On April 21, 2020, the Board of Supervisors approved Amendment No. 1 to Agreement 180141B with AMS.NET for annual technical support hours, planned project, and software licenses related to the County's Cisco Voice Over Internet Protocol (VoIP), the expansion of the Health and Human Services Administration's operations call center, and the upgrade of ITS Network Operations' Border Gateway Protocol (BGP). This agreement expired on June 30, 2022.

On June 23, 2020, the Board of Supervisors approved a sole source award to AMS.NET for the purchase of software licenses for the Cisco Flex Plan Subscription and the Cisco Flex Contract Center Subscriptions. AMS.NET is a Cisco authorized vendor of the Cisco software licenses. The Cisco Flex Plan Subscription are the licenses the County uses for its telephone system, including phones, voicemail, and active directory. The Cisco Flex Contract Center Subscription licenses allow County employees to manage incoming calls for service, including placing holds, transfers, and the tracking of both call and wait times.

On March 16, 2021, the Board of Supervisors approved a waiver of competitive bidding and sole source award to AMS.NET for a maximum of \$22,984 for the purchase of Meraki Enterprise three-year license and equipment and labor to install seventeen Access Points for the County's wireless internet services project at 650 Imperial Way.

On September 28, 2021, the Board of Supervisors approved a waiver of competitive bidding and sole source award to AMS.NET for a maximum of \$65,786 for the purchase of Meraki Enterprise three-year license and equipment and labor to install thirty-nine Access Points for the County's wireless internet services project at 1127 First Street and 1195 Third Street. 804 First Street, 212 Walnut Street and 1515 Soscol Ferry Road are a continuation of this project.

Approval of today's requested action will allow for a waiver of competitive bidding requirement and sole source award of up to a maximum of \$106,146 to AMS.NET for the purchase of the Meraki Enterprise three-year license and equipment and labor to install forty-one Access Points for the County's wireless internet services project at 804 First Street, 212 Walnut Street and 1515 Soscol Ferry Road. The sole source justification is based on compatibility, AMS is a Cisco authorized vendor of the Meraki Enterprise licenses and

has provided a custom build for the Meraki system and previous wireless installations. The proposed implementation will also use that County standard and allow all systems to function together. The Meraki Enterprise license provides cloud-based centralized management, mobility and security across multiple Access Points allowing for network wide visibility and control. The County will realize a significant savings by committing to the three-year subscription per Access Point. The one-year subscription costs \$1,181 per year and the three-year subscription costs \$423 per year. By committing to the three-year subscription for forty-one Access Points and not electing the one-year term, the County will realize a total savings of \$93,234 and reduce the renewal process for continued licensing.

AMS.NET, Inc., is located in Livermore, CA, and is not a local vendor. AMS.NET implemented the County's VoIP system, giving the company extensive knowledge of the County's network infrastructure.

## NAPA COUNTY AGREEMENT NO. 230338B

### PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into as of this 14th day of March, 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as “COUNTY”, and AMS.NET, Inc., a Delaware corporation, whose business address is 502 Commerce Way, Livermore, CA 94551, hereinafter referred to as “CONTRACTOR”;

### RECITALS

**WHEREAS**, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to install and provide wireless internet services at the Napa County Sanitation building, Napa County Flood building, and Napa County Juvenile Hall building; and

**WHEREAS**, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein; and

### TERMS

**NOW, THEREFORE**, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the terms and conditions set forth herein:

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2026, 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 CONTRACTOR to COUNTY 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.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit “A”, attached hereto and incorporated by reference herein.
3. **Compensation.**
  - (a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates set forth in Exhibit “B”, attached hereto and incorporated by reference herein.
  - (b) Expenses. No travel or other expenses will be reimbursed by COUNTY.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of FORTY THOUSAND SIX HUNDRED SEVENTY DOLLARS (\$40,670) for professional services and SIXTY FIVE THOUSAND FOUR HUNDRED SEVENTY SIX DOLLARS (\$65,476) for the purchase of software licensing and cabling expenses for a total not-to-exceed amount of ONE HUNDRED SIX THOUSAND AND ONE HUNDRED FORTY-SIX DOLLARS (\$106,146); provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

#### 4. **Method of Payment.**

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked, a detailed description of the tasks completed during the billing period, the names of person(s) performing the services and the position(s) held by such person(s), and the approved hourly or task rate.

(b) Expenses. If the Agreement provides for expense reimbursement, requests for reimbursement shall describe the nature and cost of the expense, the date incurred. With the exception of per diem reimbursements, receipts must be attached.

(c) Fixed Price. If the Agreement provides for a fixed price, if CONTRACTOR presents interim invoices, CONTRACTOR must state the percentage of work completed, which must be verified by COUNTY, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

(d) CONTRACTOR shall submit invoices not more often than thirty (30) days to the Chief Information Officer 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. A sample invoice showing the level of detail required is attached as Exhibit "C".

(e) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Chief Information Officer upon request in a form 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 CONTRACTOR within the State of California.

5. **Independent Contractor.** CONTRACTOR shall perform this Agreement as an independent contractor. CONTRACTOR and the officers, agents and employees of CONTRACTOR are not, and shall not be deemed, COUNTY employees for any purpose, including workers' compensation and employee benefits. CONTRACTOR shall, at CONTRACTOR's own risk and expense, determine the method and manner by which duties imposed on CONTRACTOR by this Agreement shall be performed; provided, however, that COUNTY may monitor the work performed by CONTRACTOR. COUNTY shall not deduct or

withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes, unless required to do so by court order. As between the parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONTRACTOR, including the agents or employees of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

7. **Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability Insurance. CONTRACTOR 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:**

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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. [RESERVED]

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. 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 of Coverage. All insurance coverages referenced in 7(b), 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 CONTRACTOR with the Information Technology Services Department prior to commencement of performance of any of CONTRACTOR's duties.

(1) 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, other termination, or material change, 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 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file an endorsement waiving subrogation with the evidence of coverage.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) **Inclusion in Subcontracts.** CONTRACTOR 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 full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless COUNTY and its officers, agents, employees, volunteers, or 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 CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees, volunteers, representatives, or other contractors or their subcontractors. 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, providing 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.** CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR'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). The Napa County Purchasing Agent or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

**10. Other Termination.** This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party specifying the effective date thereof at least THIRTY (30) days prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by COUNTY unless an opportunity

for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

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

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a party under Paragraph 10:

(1) To the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof. Notwithstanding the foregoing and to the extent services under this Agreement involve the development of previously patented inventions or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(b) CONTRACTOR 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 CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

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.

COUNTY

Jon Gjestvang  
Napa County ITS  
650 Imperial Way, Ste. 201  
Napa, CA 94559

CONTRACTOR

David Zieker  
AMS.NET, Inc.  
502 Commerce Way  
Livermore, CA 94551

14. **Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR 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 COUNTY employees or contractors.

(a) Napa County "Waste Source Reduction and Recycled Product Content Procurement Policy" adopted by resolution of the Board of Supervisors (BOS) effective March 26, 1991, which is found in Napa County Policy Manual Part I, Section 8D.

(b) Napa County "Policy: Discrimination, Harassment, and Retaliation Prevention Policy" adopted by resolution of the BOS effective May 2, 1995 and subsequently revised effective June 20, 2017 which is found in Napa County Policy Manual Part I, Section 37K.

(c) Napa County "Drug and Alcohol Policy" which is found in Napa County Policy Manual Part I, Section 37O.

(d) "Napa County Information Technology Use & Security Policy" adopted by resolution of the BOS effective March 25, 1997 and subsequently revised effective April 17, 2001, which is found in Napa County Policy Manual Part I, Section 31A. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is found in Napa County Policy Manual Part I, Section 37U.

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

16. **Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of COUNTY, expressed through its Chief Information Officer. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as “Protected Information”), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR. Additionally, CONTRACTOR shall only access, use or disclose County Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with County. Any other access, use or disclosure of County Protected Information is prohibited. Examples of prohibited accesses, uses and disclosures include, but are not limited to: the removal of confidential files, documents or devices containing County Protected Information from a County facility; the unauthorized transmission of County Protected Information via email, fax or other means; and the discussion of such information with other individuals (including other CONTRACTOR or County employees) who do not have a County approved business reason to obtain the information.

(2) CONTRACTOR shall ensure that its staff and any third party organizations or individuals that it engages to perform services in conjunction with the terms of this agreement are trained to its privacy and security policies, as well as Paragraph 15 of this agreement; and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of. This

includes instances wherein CONTRACTOR encounters unsecured Protected Information in areas where CONTRACTOR employees are performing services.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of COUNTY's Protected Information, or its unauthorized access to or disclosure of COUNTY's Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

(c) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY's data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COUNTY data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COUNTY data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COUNTY for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COUNTY must bear.

#### **17. No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

18. **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 CONTRACTOR 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.

19. **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.

20. **Compliance with Laws.** CONTRACTOR 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, CONTRACTOR 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 (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

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

21. **Taxes.** CONTRACTOR 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

22. **Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records for at least seven (7) years after COUNTY makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

23. **Authority to Contract.** CONTRACTOR and COUNTY each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

24. **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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY



may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 CONTRACTOR, although holding a "designated" position as a 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.

CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY's Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

25. **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.

26. **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.

27. **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.

28. **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.

29. **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.

30. **Special Terms and Conditions.** [RESERVED]

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

AMS.NET, INC.

DocuSigned by:  
 By Robert Tocci  
 C1A101A610F54F1...  
 ROBERT TOCCI, President

DocuSigned by:  
 By Diana Monaghan  
 3232E6663BAG45D...  
 DIANA MONAGHAN, Vice President

"CONTRACTOR"

NAPA COUNTY, a political subdivision of  
 the State of California

By \_\_\_\_\_  
 BELIA RAMOS, Chair  
 Board of Supervisors

"COUNTY"

<p>APPROVED AS TO FORM          Office of County Counsel</p> <p>By: <u>Ryan FitzGerald (e-sign)</u>          County Counsel</p> <p>Date: <u>February 28, 2023</u></p>	<p>APPROVED BY THE NAPA          COUNTY          BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>_____          Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS          Clerk of the Board of Supervisors</p> <p>By: _____</p> <p>_____</p>
---	---	--

## **EXHIBIT "A"**

### **SCOPE OF WORK**

CONTRACTOR shall provide COUNTY with the following services:

#### **I. DESCRIPTION OF SERVICES**

##### **FLOOD BUILDING:**

##### **MERAKI MR46 CLOUD MANAGED AP 3 YEAR #Q-00067140**

- Purchase and Licensing – Provide Meraki Enterprise License and 3 Years support for 3 Access Points.
- Furnish and Install – 3 Meraki MR46 Access Points.

##### **WIRELESS CABLING #Q-00067158**

To install cabling for 3 new Access Points at the Napa County Flood building (located at 804 1<sup>st</sup> Street, Napa, CA 94559), CONTRACTOR shall:

- Furnish and Install – Install 3 Cat 6 cables from Main Distribution Frame/Intermediate Distribution Frame to new Access Points.
- Cabling will be pulled thru existing conduit and drop ceiling to support connection of mounted Access Points, all mounting hardware included.
- Patch panel termination and test new cabling and connection to Access Points.

##### **JUVENILE HALL BUILDING:**

##### **MERAKI M46 CLOUD MANAGED AP 3 YEAR #Q-00067142**

- Purchase and Licensing – Provide Meraki Enterprise License and 3 Years support for 23 Access Points.
- Furnish and Install – 23 MR46 Access Points.

##### **WIRELESS CABLING #Q-00067159**

To install cabling for 23 new Access Points at the Juvenile Hall building (located at 212 Walnut Street, Napa, CA 94559), CONTRACTOR shall:

- Furnish and Install – Install 23 Cat 6 cables from Main Distribution Frame/Intermediate Distribution Frame to new Access Points.
- Cabling will be pulled thru existing conduit and drop ceiling to support connection of mounted Access Points, all mounting hardware included.
- Patch panel termination and test new cabling and connection to Access Points.

## **NAPA SANITATION BUILDING:**

### **MERAKI MR46 CLOUD MANAGED AP 3 YEAR #Q-00067138**

- Purchase and Licensing – Provide Meraki Enterprise License and 3 Years support for 15 Access Points.
- Furnish and Install – 13 MR46 Access Points & 2 MR46E Access Points.

### **WIRELESS CABLING #Q-00067161**

To install cabling for 15 new Access Points at the Napa Sanitation building (located at 1515 Soscol Ferry Road, Napa, CA 94558), CONTRACTOR shall:

- Furnish and Install – Install 15 Cat 6 cables from Main Distribution Frame/Intermediate Distribution Frame to new Access Points.
- Cabling will be pulled thru existing conduit and drop ceiling to support connection of mounted Access Points, all mounting hardware included.
- Patch panel termination and test new cabling and connection to Access Points.

## **II. SPECIAL TERMS AND CONDITIONS**

- All work quoted to be completed during normal working hours (M-F, 7am – 4pm)

**III. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.** As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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. 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.

**EXHIBIT "B"****COMPENSATION AND EXPENSE REIMBURSEMENT**

<b>DESCRIPTION</b>	<b>PER ATTACHED AMS.NET QUOTE #</b>	<b>PROFESSIONAL SERVICE SUBTOTAL</b>	<b>SOFTWARE LICENSES/SUBSCRIPTIONS SUBTOTAL</b>	<b>TOTALS</b>
<b>Meraki MR46 Cloud Managed AP 3 Year (Flood Building)</b>	<b>#Q-00067140</b>	\$1,150.00	\$4,058.18	<b>\$5,208.18</b>
<b>Flood Building Cabling</b>	<b>#Q-00067158</b>	\$2,740.00	\$823.99	<b>\$3,563.99</b>
<b>Meraki MR46 Cloud Managed AP 3 Year (Juvenile Hall)</b>	<b>#Q-00067142</b>	\$6,550.00	\$31,112.73	<b>\$37,662.73</b>
<b>Juvenile Hall Cabling</b>	<b>#Q-00067159</b>	\$15,720.00	\$4,932.56	<b>\$20,652.56</b>
<b>Meraki MR46 Cloud Managed AP 3 Year (Napa Sanitation)</b>	<b>#Q-00067138</b>	\$4,550.00	\$21,493.64	<b>\$26,043.64</b>
<b>Napa Sanitation Cabling</b>	<b>#Q-00067161</b>	\$9,960.00	\$3,054.56	<b>\$13,014.56</b>
<b>Totals</b>		<b>\$40,670.00</b>	<b>\$65,475.66</b>	<b>\$106,145.66</b>

The maximum payments not to exceed ONE HUNDRED SIX THOUSAND AND ONE HUNDRED FORTY-SIX DOLLARS (\$106,146.00)

**EXHIBIT "C"****[Company Name]**

[Street Address]

[City, ST ZIP Code]

Phone [phone] Fax [fax]

Taxpayer ID #

**SAMPLE  
INVOICE**

INVOICE # \_\_\_\_\_

DATE: \_\_\_\_\_

**TO:**

[Customer Name]

[Street Address]

[City, ST ZIP Code]

**FOR:**

[Project or service description]

Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St, Napa.	Smith, Engineer	1.5	\$165.00	247.50
1/1/15	Conf w/Owner	Smith, Engineer	1	\$165.00	165.00
1/1/15	AutoCad, Bldg X, 3 <sup>rd</sup> Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15	AutoCad Bldg X, 3 <sup>rd</sup> Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15	Conf w/Owner re 2 <sup>nd</sup> Floor	Smith, Engineer	.5	\$165.00	82.50
1/3/15	Mtg w/Jones re 2 <sup>nd</sup> Floor; conf w/Owner	Smith, Engineer	1.5	\$165.00	247.50
1/3/15	Mtg w/Smith; conf w/Owner re 2 <sup>nd</sup> Floor	Jones, PE	1.5	\$195.00	292.50
TOTAL					

**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 subject to State prevailing wage laws. State prevailing wage laws require certain provisions be included in all contracts for public works. The Contractor and any subcontractors shall comply with State prevailing wage laws including but not limited to the requirements listed below.

**1. Compliance with Prevailing Wage Requirements.** Pursuant to California Labor Code sections 1720 through 1861, the 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.

**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>. The 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.

**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.

**2. Penalties for Violations.** The 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 shall be in addition to any other applicable penalties allowed under California Labor Code sections 1720 through 1861.

**3. Payroll Records.** The Contractor and all subcontractors 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. The Contractor shall require all subcontractors to also comply with section 1776. The Contractor and all subcontractors shall furnish records specified in section 1776 on a monthly basis, both to the County and directly to the Labor Commissioner in the manner required by California Labor Code section 1771.4. The Contractor shall ensure its subcontractors prepare and submit payroll records to the County and the DIR as required by this section.

**3.1.** If the Contractor or a subcontractor is exempt from the DIR registration requirement pursuant to section 9.4 below, then the Contractor or such subcontractor is 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).

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

**4. Apprentices.** The 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. The Contractor is responsible for compliance with this section for all apprenticeable occupations pursuant to California Labor Code section 1777.5(n).

**5. Working Hours.** The Contractor and all subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a 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; and (ii) specify penalties to be imposed on contractors and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

**6. Required Provisions for Subcontracts.** The 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, 1810, 1813, 1815, 1860 and 1861.

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



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

**9. Contractor and Subcontractor Registration Requirements.** The Contractor and all subcontractors shall not be qualified to bid on, be listed in a bid or proposal, subject to the requirements of California Public Contract Code section 4104, or 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. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by California Business and Professions Code section 7029.1 or California Public Contract Code sections 10164 or 20103.5, provided the Contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded.

**9.1.** A Contractor's inadvertent error in listing a subcontractor who is not registered pursuant to California Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a protest or grounds for considering the bid or proposal non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to the proposal due date; (2) within 24 hours after the proposal due date, the subcontractor is registered and has paid the penalty registration fee specified in California Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to California Public Contract Code section 4107.

**9.2.** By submitting a bid or proposal to the County, the Contractor is certifying that the Contractor 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. The Contractor shall provide proof of registration for themselves and all listed subcontractors to the County at the time of the bid or proposal due date or upon request.

**9.3.** The County may ask the 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 the Contractor shall provide the list within ten (10) working days of the County's request.

**9.4.** This section shall not apply to work performed 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 to work performed 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).

**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.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0431

**TO:** Board of Supervisors  
**FROM:** Jon Gjestvang, Chief Information Officer - Information Technology Services  
**REPORT BY:** Elena Guzman, Staff Services Analyst  
**SUBJECT:** Establishment of Capital Asset for Purchase of Motorola Radios

### **RECOMMENDATION**

Chief Information Officer requests the following actions regarding replacement of portable radio equipment (4/5 vote required):

1. A waiver of competitive bidding requirement and sole source award to Motorola Solutions in the amount of \$315,000; and
2. Establishment of a capital asset in the amount of \$315,000 for Motorola portable radios.

### **EXECUTIVE SUMMARY**

Approval of today's requested actions will allow Information Technology Services to purchase replacement portable radios for County Fire and establish the radios as a capital asset, increasing the total appropriations to \$1,175,000.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Information Technology Services
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Due to discontinuation of parts from the manufacturer, Communications is unable to repair or service current equipment. A budget adjustment to increase appropriations for this purchase is included in the County's 6-month budget adjustment report that is also being brought to the Board on March 14, 2023.
Is the general fund affected?	Yes
Future fiscal impact:	Any future fiscal impact will be budgeted accordingly.

Consequences if not approved:	If not approved, all repairs for County Fire portable radios will face extended delays during the 2023 fire season.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 153778 (State of CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

In planning and participation with County Fire, the Communications department must upgrade Napa County Fire's portable radio equipment to leverage the capabilities of the new public safety communications infrastructure. The department is unable to repair or service current Napa County portable radios due to the discontinuation of parts from the manufacturer. This purchase allows Napa County Communications to maintain quality command and control of services as well as unify both Fire and Law communications technologies. This equipment will allow County Fire to successfully conduct all interoperations with agencies within Napa and other radio networks throughout the State. Furthermore, the APX 8000 All-Band portable radios are an efficient 4-in-1 radio that offer limitless interoperability, and seamless Wi-Fi connectivity. With Wi-Fi access, the APX 8000 can quickly receive new codeplugs, firmware and software features and updates in order to deploy the radio fleet with ease and without interruption.

As part of Fiscal Year 2022 - 2023 Information Technology Services (ITS) budget, \$558,000 in Capital Assets were approved for network and radio equipment.

On August 23, 2022, the Board approved a budgetary transfer in the amount of \$302,000 from available Fund Balance, increasing the total appropriation to \$860,000 and approved a revision of the ITS Capital Asset Schedule for Fiscal Year 2022-2023, so ITS could purchase (36) new Motorola portable radios and (3) new Motorola mobile radios.

Today's action will revise the approved ITS Capital Asset Schedule for the Fiscal Year 2022 - 2023, so ITS can purchase (41) new Motorola portable radios. Thus, establishing the radios as Capital Assets, increasing the total appropriation to \$1,175,000, offset by a budgetary transfer for \$315,000 included in the County's 6-month budget adjustment report that is also being brought to the Board on March 14, 2023.

The Capital Asset schedule will increase as shown below:

FY22/23 Schedule of Approved Capital Assets:	Today's Requested Revision:
--	-----------------------------

South Campus VI Host Replacement (3)	\$120,000	South Campus VI Host Replacement (3)	\$120,000
Admin SAN Expansion (4)	\$268,000	Admin SAN Expansion (4)	\$268,000
TB9400 Basestations (8)	\$170,000	TB9400 Basestations (8)	\$170,000
Motorola Mobile/Portable Radios (39)	\$302,000	Motorola Mobile/Portable Radios (39)	\$302,000
		Motorola Portable Radios (41)	\$315,000
Total:	\$860,000	Total:	\$1,175,000

Motorola Solutions is not a local vendor. However, they are the sole manufacturer of the APX radios and global leaders in communications equipment.



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0207

---

**TO:** Board of Supervisors

**FROM:** Steven Lederer - Director of Public Works

**REPORT BY:** Amanda Exum - Staff Services Analyst I

**SUBJECT:** Amendment No. 2 to Professional Services Agreement 230037B with HCI Services, Inc.

---

### **RECOMMENDATION**

Director of Public Works requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 230037B with HCI Services, Inc. to:

1. Increase compensation for routine fire system services by \$1,000 for a new maximum amount of \$49,220 per fiscal year for the term of the agreement;
2. Increase compensation for non-routine services by \$25,000 for a new maximum amount of \$95,000 in fiscal year 2022-23; and increasing compensation for non-routine services by \$5,000 for contract years two through five for a new maximum amount of \$25,000 to address critical maintenance and repairs at various County locations; and
3. Amend the scope of work to include routine monitoring, testing, and inspection of the alarm system at Carneros Fire Station 210.

### **EXECUTIVE SUMMARY**

Approval of Amendment No. 2 to Agreement No. 230037B will amend the scope of work to include routine fire alarm monitoring, testing, and inspection services for Carneros Fire Station 210, will increase maximum compensation for routine services by \$1,000 per fiscal year to cover the added work, and will increase maximum compensation for non-routine services by \$25,000 in fiscal year 2022-23. Compensation for non-routine services for future fiscal years will increase by \$5,000.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Property Management
Is it Mandatory or Discretionary?	Mandatory
Discretionary Justification:	Monitoring, maintenance, and repair of fire alarm systems is required to ensure the safe and consistent operation of County-owned or operated facilities.
Is the general fund affected?	No
Future fiscal impact:	The amount will be budgeted accordingly in future fiscal years.
Consequences if not approved:	There would not be monitoring, testing, and inspection services of the fire alarm system at Carneros Fire Station 210, nor the ability to address critical maintenance and repairs placing the County at risk of being out of compliance with the standards set forth by the National Fire Protection Association (NFPA 72).
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On June 21, 2022, as a result of a competitive request for proposals conducted in 2022, the Board of Supervisors authorized Agreement No. 230037B with HCI Services, Inc. to provide annual monitoring, testing, inspection, and maintenance of fire alarms located in County owned and operated buildings.

On November 8, 2022, the Board of Supervisors authorized Amendment No. 1 of this agreement to amend the scope of work to add monitoring services of the fire alarm system at the Center Point facility and to provide adequate compensation to replace a damaged and inoperable fire alarm panel located at the Napa County Airport.

Amendment No. 2 of this agreement is needed to amend the scope of work to add monitoring, testing, and inspection services of the fire alarm system at Carneros Fire Station 210 and to provide adequate compensation for non-routine services at various County locations.

For fiscal year 2022-23 and future years, an additional \$1,000 is needed to provide routine monitoring, testing, and inspection services at Carneros Fire Station 210. An additional \$25,000 is needed in fiscal year 2022-23 and an additional \$5,000 for the remainder of the contract term for non-routine services for critical maintenance and repairs as they arise.

Approval of Amendment No. 2 will allow for ongoing routine fire alarm monitoring, testing, and inspections at Carneros Fire Station 210 and will allow Property Management to address critical fire alarm maintenance and repairs in a timely manner. With approval of this amendment, maximum annual compensation for routine services will increase to \$49,220 per fiscal year and maximum compensation for non-routine services will increase to \$95,000 in fiscal year 2022/23 and to \$25,000 in future fiscal years.

HCI Services, Inc. is not a local vendor.

**NAPA COUNTY AGREEMENT NO. 230037B  
AMENDMENT NO. 2**

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AMENDMENT NO. 2 OF NAPA COUNTY AGREEMENT NO. 230037B** is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and HCI SERVICES, INC., a California corporation, whose business address is 1354 S. Parkside Place, Ontario, CA 91761, hereinafter referred to as "CONTRACTOR";

**RECITALS**

**WHEREAS**, by Napa County Agreement No. 230037B entered into as of June 21, 2022 (hereafter referred to as "Agreement"), CONTRACTOR agreed to provide annual monitoring, testing, inspection and maintenance of fire alarms located in COUNTY owned or operated buildings; and

**WHEREAS**, on November 8, 2022 COUNTY and CONTRACTOR entered into Amendment No. 1 to the Agreement to update the scope of work and to increase maximum compensation to accommodate the need for additional routine and non-routine services.

**WHEREAS**, COUNTY and CONTRACTOR now desire to amend the Agreement to update the scope of work and to increase maximum compensation to accommodate the need for additional routine and non-routine services.

**TERMS**

**NOW, THEREFORE**, COUNTY and CONTRACTOR agree to amend the Agreement in accordance with the terms and conditions set forth herein as follows:

1. Exhibits "A-1" and "B-1" of the Agreement are rescinded and replaced in full by those documents entitled Exhibit "A-2" and "B-2", respectively, incorporated herein, and all references in the Agreement to Exhibit "A" and "A-1" and Exhibit "B" and "B-1" shall mean Exhibit "A-2" and Exhibit "B-2", respectively.
2. Paragraph 2, "**Scope of Services**" is hereby amended to read in full as follows:
  2. **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A-2", attached hereto, in addition to the RFP and CONTRACTOR'S proposal, incorporated by reference herein.
3. Paragraph 3, "**Compensation**" is hereby amended to read in full as follows:
  3. **Compensation.**



(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates set forth in Exhibit "B-2" attached hereto and incorporated by reference herein.

(b) Expenses. No travel or other expenses will be reimbursed by COUNTY.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of FORTY-NINE THOUSAND TWO HUNDRED AND TWENTY DOLLARS (\$49,220) for routine professional services per fiscal year and NINETY-FIVE THOUSAND DOLLARS (\$95,000) for authorized non-routine maintenance, authorized repair services and authorized emergency services as requested by the County's Director of Public Works or designee for fiscal year 22/23; and TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per fiscal year in years 2-5; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. **Counterparts.** This Amendment No. 2 may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

5. **Electronic Signatures.** This Amendment No. 2 may be executed by electronic signature(s) and transmitted in a portable document format ("PDF") version by email and such electronic signature(s) shall be deemed original for purposes of this Amendment No. 2 and shall have the same force and effect as a manually executed original.


6. This Amendment No. 2 shall be effective as of January 1, 2023.


7. Except as provided in paragraphs 1 through 6 above, the terms and provisions of the Agreement shall remain in full force and effect.

*[Remainder of page left blank intentionally; signature page follows.]*

**IN WITNESS WHEREOF**, this Amendment No. 2 was executed by the parties hereto as of the date first above written.

HCI SERVICES, INC.

By:   
DREW TURNER, President

By:   
CARLA ROBLES, Controller

“CONTRACTOR”

NAPA COUNTY, a political subdivision of  
the State of California

By: \_\_\_\_\_  
BELIA RAMOS, Chair Board of Supervisors

“COUNTY”

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Jason M. Dooley</u> Deputy County Counsel</p> <p>Date: January 12, 2023</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>_____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
---	--	--

## EXHIBIT "A-2"

### SCOPE OF WORK

CONTRACTOR shall provide COUNTY with the following services:

#### **I. DESCRIPTION OF SERVICES**

I. CONTRACTOR shall provide COUNTY with monitoring along with annual inspections and testing, and necessary maintenance at the locations listed below. Inspection and testing shall conform to the most current standards established by the National Fire Protection Association (NFPA 72) and the most current California Fire Code.

CONTRACTOR shall email inspection reports to the COUNTY's Maintenance Supervisor within five (5) working days of test/service.

CONTRACTOR shall complete Napa County Department of Corrections Visitor Security Clearance Form to enter the Jail, illustrated in Exhibit "D".

CONTRACTOR shall service all installed devices at included location.

CONTRACTOR shall provide needed maintenance, including parts, for all listed types of alarm panels.

Building	Address	Panel	Devices	Square Footage	Monitoring Needed
Admin	1195 Third St	Silent Knight 5207	169	64,908	Yes
650 Imperial	650 Imperial Wy	Notifier AFP200	54	30,109	Yes
Library	580 Coombs St	Silent Knight 5207	45	35,368	Yes
Animal Shelter	942 Hartle Ct	Silent Knight 5820	42	13,435	Yes
Homeless Shelter	100 Hartle Ct	Silent Knight 5820	54	13,022	Yes
Parking Garage	1100 5th St	Intelli Knight 5700	19	166,000	Yes
California Yard	3075 California Blvd	Gamewell	5	13,900	Yes
Greenwood Fire	1555 Airport Blvd	Simplex 4001	14	8,000	No - Monitored Local
Bella	1046 Bella Dr	Silent Knight 5820XL	27	2,564	Yes
PEP	3281 Solano Ave	Notifier NFW50	27	3,125	Yes
Center Point	2100 Napa-Vallejo Hwy (M1 &M2)	Notifier AFP200	161	13,599	Yes
1917 First	1917 First St	Fire Light MS-2	6	1,906	No - Monitored Local
Houses at Napa State Avenues "1"	2100 Napa-Vallejo Hwy (The Avenues)	Silent Knight 5204	10	2,160	No - Reports to House 2

Houses at Napa State Avenues "2"	2100 Napa-Vallejo Hwy (The Avenues)	Silent Knight 5204 Notifier AFP200 Fire Watch 411UDAC Honeywell IPGSM-4G	10	2,160	Yes (Houses 1 & 3 report to this location)
Houses at Napa State Avenues "3"	2100 Napa-Vallejo Hwy (The Avenues)	Silent Knight 5204	14	2,395	No - Reports to House 2
Re-Entry Facility	2300 Napa-Vallejo Hwy	Silent Knight Intelliknight Mod.5820XL	50+/-	unknown	Yes
Carneros Fire Station 210	5260 Old Sonoma Road	Fire-Lite ES200X	6	1,842	Yes

All denoted quantities are approximate. Unless otherwise indicated, all locations are in Napa, California.

II. CONTRACTOR shall provide COUNTY with monitoring along with annual inspections and testing and necessary maintenance, with 25% of total equipment tested each quarter, at the locations listed below. Inspection and testing shall conform to the most current standards established by the National Fire Protection Association (NFPA 72) and the most current California Fire Code.

CONTRACTOR shall email inspection reports to the COUNTY's Maintenance Supervisor within five (5) working days of test/service.

CONTRACTOR shall complete Napa County Department of Corrections Visitor Security Clearance Form to enter the Jail, illustrated in Exhibit "D".

CONTRACTOR shall service all installed devices at included location.

CONTRACTOR shall provide needed maintenance, including parts, for all listed types of alarm panels.

Building	Address	Panel	Devices	Square Footage	Monitoring Needed
1127 First St	1127 First St.	Silent Knight 5207	103	51,012	Yes
Sheriff's Office	1535 Airport Blvd.	Notifier	160	48,897	Yes
JJC	212 Walnut St.	Notifier NFS-640	274	45,786	No - Monitored local
Hall of Justice	1125 Third St.	Notifier	212	115,255	Yes
New Jail	1125 Third St.	Notifier 1010	260	60,000	No - Monitored local
Airport	2000 Airport Rd.	FENWAL FENWALNET 2000	250+/-	unknown	Yes
South Campus "A"	2751 Napa Valley Corporate Drive	Simplex 4005	250	80,012	Yes

South Campus "B"	2751 Napa Valley Corporate Drive	Notifier LCD80	170	86,185	Yes
South Campus "4"	2751 Napa Valley Corporate Drive	Notifier afp400	140	70,337	Yes

All denoted quantities are approximate. Unless otherwise indicated, all locations are in Napa, California.

III. CONTRACTOR shall provide COUNTY with monitoring at the following ITS Cold Room locations and shall conform to the most current standards established by the National Fire Protection Association (NFPA 72) and the most current California Fire Code. Unless otherwise indicated, all locations are in Napa, California.

Building	Address	Panel	Devices	Square Footage	Monitoring Needed
Admin - ITS Server Room	1195 Third St.	Notifier RP1002	NA	NA	Yes
650 Imperial - ITS Cold Room	650 Imperial Way	Chemetron Micro 200-i	NA	NA	Yes
Building A - ITS Cold Room	2751 Napa Valley Corporate Dr.	RHINO 10-050 SERIES	NA	NA	Yes
Building B - ITS Cold Room	2752 Napa Valley Corporate Dr.	RHINO 10-050 Series	NA	NA	Yes
Building 4 - ITS Cold Room	2753 Napa Valley Corporate Dr.	RHINO 10-050 Series	NA	NA	Yes

IV. **Non Routine and Emergency Services:** CONTRACTOR shall provide COUNTY with authorized non-routine maintenance, authorized repair services, and authorized emergency service as requested by the County's Director of Public Works or designee at the hourly rates provided in Exhibit "B-2", plus parts.

**Response Time:** CONTRACTOR shall communicate receipt of requests for non-routine maintenance and repair services within twenty-four (24) hours. CONTRACTOR shall provide on-site Emergency service within four (4) hours of requests.

**Written Reports:** A written report, utilizing the format established by the NFPA, shall be provided for each inspection and test at each location. CONTRACTOR shall email inspection reports to the COUNTY's Maintenance Supervisor within five (5) working days of test/service.

**Hours and Frequency of Service:** All inspections and testing will be performed between the hours of 6:30 am and 8:30 am, or as mutually determined by the COUNTY's Director of Public Works or Designee and CONTRACTOR, Monday through Friday, excluding holidays to minimize the effect on normal operation of the facilities, each of which has special security needs.

**Minimum Certifications and Licensing:** A California C10 Contractor's License is required. Registration with the California Department of Industrial Relations (DIR) is required in order submit a proposal and a valid DIR registration number must be maintained throughout the entirety of the contract.

**II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.** As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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. 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.

**EXHIBIT "B-2"****COMPENSATION**

<b>Building</b>	<b>Address</b>	<b>Panel</b>	<b>Devices</b>	<b>Square Footage</b>	<b>Monitoring Needed</b>	<b>Monitoring Cost</b>	<b>Testing / Inspection Cost</b>
Admin	1195 Third St	Silent Knight 5207	169	64,908	Yes	\$360	\$2,560
650 Imperial	650 Imperial Wy	Notifier AFP200	54	30,109	Yes	\$360	\$640
Library	580 Coombs St	Silent Knight 5207	45	35,368	Yes	\$360	\$640
Animal Shelter	942 Hartle Ct	Silent Knight 5820	42	13,435	Yes	\$360	\$640
Homeless Shelter	100 Hartle Ct	Silent Knight 5820	54	13,022	Yes	\$360	\$640
Parking Garage	1100 5th St	Intelli Knight 5700	19	166,000	Yes	\$360	\$640
California Yard	3075 California Blvd	Gamewell	5	13,900	Yes	\$360	\$320
Greenwood Fire	1555 Airport Blvd	Simplex 4001	14	8,000	No - Monitored Local		\$640
Bella	1046 Bella Dr	Silent Knight 5820XL	27	2,564	Yes	\$360	\$640
PEP	3281 Solano Ave	Notifier NFW50	27	3,125	Yes	\$360	\$640
Center Point	2100 Napa-Vallejo Hwy (M1 & M2)	Notifier AFP200	161	13,599	Yes	\$360	\$2,560
1917 First	1917 First St	Fire Light MS-2	6	1,906	No - Monitored Local		\$320
Houses at Napa State Avenues "1"	2100 Napa-Vallejo Hwy (The Avenues)	Silent Knight 5204	10	2,160	No - Reports to House 2		\$320
Houses at Napa State Avenues "2"	2100 Napa-Vallejo Hwy (The Avenues)	Silent Knight 5204 Notifier AFP200 Fire Watch 411UDAC Honeywell IPGSM-4G	10	2,160	Yes (Houses 1 & 3 report to this location)	\$900	\$320
Houses at Napa State Avenues "3"	2100 Napa-Vallejo Hwy (The Avenues)	Silent Knight 5204	14	2,395	No - Reports to House 2		\$320
Re-Entry Facility	2300 Napa-Vallejo Hwy	Silent Knight Intelliknight Mod.5820XL	50+/-	unknown	Yes	\$360	\$1,280
Carneros Fire Station 210	5260 Old Sonoma Road	Fire-Lite ES200X	6	1,842	Yes	\$360	\$640
1127 First St	1127 First St.	Silent Knight 5207	103	51,012	Yes	\$360	\$1,280
Sheriff's Office	1535 Airport Blvd.	Notifier	160	48,897	Yes	\$360	\$2,560



JJC	212 Walnut St.	Notifier NFS-640	274	45,786	No - Monitored local		\$3,840
Hall of Justice	1125 Third St.	Notifier	212	115,255	Yes	\$360	\$3,840
New Jail	1125 Third St.	Notifier 1010	260	60,000	No - Monitored local		\$3,840
Airport	2000 Airport Rd.	FENWAL FENWALNET 2000	250+/-	unknown	Yes	\$360	\$3,840
South Campus "A"	2751 Napa Valley Corporate Drive	Simplex 4005	250	80,012	Yes	\$360	\$3,840
South Campus "B"	2751 Napa Valley Corporate Drive	Notifier LCD80	170	86,185	Yes	\$360	\$1,600
South Campus "4"	2751 Napa Valley Corporate Drive	Notifier afp400	140	70,337	Yes	\$360	\$1,280
Admin - ITS Server Room	1195 Third St.	Notifier RP1002	NA	NA	Yes	\$360	
650 Imperial - ITS Cold Room	650 Imperial Way	Chemetron Micro 200-i	NA	NA	Yes	\$360	
Building A - ITS Cold Room	2751 Napa Valley Corporate Dr.	RHINO 10-050 SERIES	NA	NA	Yes	\$360	
Building B - ITS Cold Room	2752 Napa Valley Corporate Dr.	RHINO 10-050 SERIES	NA	NA	Yes	\$360	
Building 4 - ITS Cold Room	2753 Napa Valley Corporate Dr.	RHINO 10-050 SERIES	NA	NA	Yes	\$360	

Sub Total Annual Cost  
TOTAL ANNUAL  
COST

\$9,540	\$39,680
\$49,220	

**DIR Number: PW-LR-1000401285**

**All Pricing in the above chart shall be on an annual basis**

**Non Routine and Emergency Services:** Contract may include up to \$95,000 for fiscal year 22/23 and \$25,000 per fiscal year in years 2-5 for non-routine and emergency services at the hourly rate listed below, plus parts.

Hourly Rate for Maintenance and Service is \$180
Discount off List Price for Parts is 10%

**Payment of California Prevailing Wage is required. In accordance with Section 1774 of the Labor Code, the prevailing wage rates for classifications of labor to be employed in the work have been determined and copies of the applicable determinations are on file at the Public Works Office and may be reviewed upon request. Workers must be paid at the rates at least equal to the prevailing wage**





# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0270

**TO:** Board of Supervisors

**FROM:** Steven Lederer, Director, Public Works

**REPORT BY:** Sonja El-Wakil, Project Manager

**SUBJECT:** South Napa Shelter Phase II - HVAC Project, PW 20-16A Award of Contract and Budget Transfer

### **RECOMMENDATION**

Director of Public Works requests the following for the "South Napa Shelter Phase II - HVAC Project," PW 20-16A:

1. Award of the contract for the South Napa Shelter Phase II - HVAC Project, PW 20-16A to RBH Construction, Inc. of Folsom, California for their low base bid of \$443,944, with Additive Alternate No. 1 of \$151,558, and Additive Alternate No. 2 for \$52,669, for a total contract cost of \$648,171, and authorization for the Chair to sign the construction contract, Agreement No. 230332B; and
2. Approval of Budget Transfer for the following (4/5 vote required):
  - a. Decrease appropriations in the following Housing and Homeless Services objects, \$326,724 from Other Professional Services (Fund 2030, Org 2030000, Object 52490) and \$350,000 from Client Provider Services (Fund 2030, Org 2030000, Object 52430) to increase appropriation in Transfers-Out by \$676,724 (Fund 2030, Org 2030000, Object 56100) to transfer to Homeless Shelter Improvements Project Budget (Fund 3000, Org 3000550, Project 20030, Object 48200);
  - b. Increase appropriations by \$217,865 from Accumulated Capital Outlay (ACO) (Fund 3000, Org 3000000, Object 57900) budget with the use of its available fund balance to transfer to Project 20030 (Fund 3000, Org 3000550, Project 20030, Object 48200); and
  - c. Increase appropriations by \$894,589 in Project 20030 (Fund 3000, Org 3000550, Project 20030, Object 52360) budget offset by transfer-in revenues from the Housing and Homeless Services budget and ACO.

### **EXECUTIVE SUMMARY**

In 2022, the South Napa Shelter underwent Phase I of a remodel project for improvements and upgrades. These improvements allowed the homeless shelter to better serve its clients and helped expand the number of people the shelter could serve. On January 10, 2023, Phase II improvements to the HVAC system, were approved for advertisement for bids.

Bids were opened on February 9, 2023, with the successful low bidder being RBH Construction, Inc. of Folsom, California. Therefore, Public Works is requesting the Board of Supervisors award a construction contract to RBH Construction, Inc. of Folsom, California for their grand total bid of \$648,171 (low Base Bid \$443,944 + Additive Alternate #1 \$151,558 + Additive Alternate #2 \$52,669). Additive Alternate #1 is to replace the HVAC units serving the OLE Health Clinic and office spaces of

the building. Additive Alternate #2 is to procure and install an additional water heater for the building. Additionally, Public Works requests the Board approve the proposed budget transfer from the Housing and Homeless Services and the Accumulated Capital Outlay budget to fully fund the Project.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	On December 10, 2019, the Board of Supervisors (Board) approved a \$250,000 Budget Transfer from the Homeless Services Budget to the Capital Improvement CIP budget - Fund 3000, Org 3000550, Project 20030. On June 16, 2020, the Board approved a Budget Transfer of an additional \$100,000 coming from the Community Based Transitional Housing Program and funds in the amount of \$524,550 coming from the Homeless, Housing, Assistance and Prevention Funds to fund the remaining design and some of construction services. Additional funds were approved by the Board on July 13, 2021, of \$507,190 from Housing and Homeless Services Budget to complete the Phase I construction project. On January 10, 2023, additional funds of \$173,276 from the Housing and Homeless Services Budget were approved for design and engineering services for Phase II work. Additional funds of \$894,589 are requested at this time from Housing and Homeless Services Budget, coming from the Other Professional Services account (\$326,724), the Client Provider Services account (\$350,000), and the Accumulated Capital Outlay budget (\$217,865) to the Capital Improvement CIP budget - Fund 3000, Subdivision 3000550, Program 20030.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The proposed work is to support the increase in occupancy at the South Napa Shelter, which is an already highly utilized program facility. The requested approvals will allow for the construction phase of the project.
Is the general fund affected?	No
Future fiscal impact:	Remaining budget from Fiscal Year 2022-2023 will be carried over to the Fiscal Year 2023-2024 budget.
Consequences if not approved:	If not approved, the Project will not be constructed, and the heating, cooling, and ventilation compliance needs of the shelter will not be met.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also

---

Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

### **BACKGROUND AND DISCUSSION**

The South Napa Shelter Project Phase II - HVAC ("Phase II Project") is intended to provide needed maintenance and modernization to the Napa County emergency homeless shelter facility at 100 Hartle Court, Napa, CA. The increased occupancy facilitated by Phase I of the project also requires that the HVAC be updated. The Phase I Project improvements included Americans with Disabilities Act (ADA) improvements, bathroom updates, and safety improvements. The South Napa Shelter is an existing emergency facility for persons 18 years and older who are experiencing homelessness. It is operated by Abode Services under contract from the County. The shelter's primary goals for its residents are providing safe access to emergency shelter, food, and basic sanitation services, followed by assisting those individuals with increasing their ability to earn income and to secure sustainable housing. It was originally constructed in 2005. The shelter has since been expanded to include the onsite operation of a Day Use Center (formerly known as "The Hope Center" and operated in a separate, downtown Napa location) which has increased the daily use of the Hartle Court facility, particularly the use of the restrooms, shower facilities, common use areas and the internal office spaces for meeting with clients. The South Napa Shelter building was originally designed to have an occupancy of 69 individuals on an overnight basis.

The Phase I Project initiated the increase of building occupancy to a limit of 64 men and 40 women at the South Napa Shelter, as limited by the 2019 Title 24 of the California Code of Regulations (Title 24), based on available bathroom fixtures. In two phases, the primary Phase I Project portion of this work has involved overlapping bathroom, plumbing, and ADA work, to accommodate the occupancy increase, to mitigate repairs needed for safety and durability, and for ADA accessibility. This was the extent of work that could be completed given the funds available at that time. Phase II Project work will include replacement of the older HVAC and related electrical upgrades.

On November 18, 2019, as a result of a competitive RFQ process, The KPA Group was chosen by staff to complete a feasibility study for the South Napa Shelter improvements. The agreement with The KPA Group was signed by the Purchasing Agent on December 18, 2019. The project feasibility study was completed March 2, 2020, and clarified the scope of the Project design and construction phases. On June 16, 2020, the Board of Supervisors (Board) approved additional project budget to fund the remaining design services and a portion of the construction in Amendment #1 of the service agreement. On April 20, 2021, the Board approved advertisement of plans and specifications for the Phase I Project. On July 13, 2021, the low bidder, Art's Construction Company, Inc., was awarded the contract for construction. The total construction contract was \$956,645, with a project budget of \$1,381,741. The Phase I Project construction is now substantially complete, including the remodel of the existing multi-use bathrooms to provide finishes that are more durable to accommodate higher volume use of the facility with the operation of the Day Use Center onsite, and compliance work related to the adopted Napa County ADA Transition Plan. On January 10, 2023, the Board approved an additional \$173,276 funds from the Housing and Homeless Services budget for design and engineering services for the Phase II work, including an amendment of the agreement with The KPA Group for architectural and engineering services, as well as approved the design for advertisement for bids.

On February 9, 2023, bids were received and opened. Please see the file attached to this letter for the bids.

The lowest responsive base bid of \$443,944 is from RBH Construction, Inc. of Folsom, CA. In addition, staff recommends award of Additive Alternate #1 for \$151,558 and Additive Alternate #2 for \$52,669, for a total contract of \$648,171. Additive Alternate #1 is to replace the HVAC units serving the OLE Health Clinic and office spaces of the building. Additive Alternate #2 is to procure and install an additional water heater for the building.

The total project cost is \$2,449,605, including the Phase I Project allocation of \$1,381,741, design funds previously approved, and the request today for \$894,589. Approval of the requested actions today will initiate construction. It is anticipated that this project will extend multiple fiscal years. Construction is anticipated to occur in Fall 2023 and be completed by the end of the calendar year, pending parts and materials availability.

RBH Construction, Inc. is not a local vendor however, the Public Contract Code requires that the construction contract be awarded to the lowest responsible bidder regardless of whether the low bidder is local or not. Staff reached out to the local construction contractor community by advertising the request for bids in the Napa Valley Register and the Solano-Napa

Builder's Exchange, and by posting on the County website. Staff also sent "Notices to Contractors" to the local construction community.

**South Napa Shelter Project, PW 20-16 & PW 20-16A**

Board of Supervisors meeting date: 2/28/2023

**CONSTRUCTION PHASE**

Budget Item	Budget Item Amount	Board Appropriation Request Today	Board Appropriation to date	Appropriation Amount Spent to Date	Appropriation Amount % Spent to Date	Appropriation Amount Balance
Construction Phase 2	\$648,171	\$648,171	\$0	\$0	N/A	\$0
Construction Contingency Phase 2	\$162,043	\$162,043	\$0	\$0	N/A	\$0
Design Phase 2	\$173,276	\$0	\$173,276	\$53,440	31%	\$119,836
Engineering & Construction Mngmt Phase 2	\$106,173	\$83,173	\$23,000	\$230	1%	\$22,770
Construction Phase 1	\$782,200	\$0	\$782,200	\$743,090	95%	\$39,110
Construction Contingency Phase 1	\$195,550	\$0	\$195,550	\$118,783	61%	\$76,767
Design Phase 1	\$217,920	\$0	\$217,920	\$217,920	100%	\$0
Engineering & Construction Mngmt Phase 1	\$86,042	\$0	\$86,042	\$86,042	100%	\$0
Hazmat testing	\$3,368	\$0	\$3,368	\$3,368	100%	\$0
County Project Management/Administration/RFQ	\$56,159	\$0	\$56,159	\$56,159	100%	\$0
RFQ & Direct Costs	\$15,704	\$1,202	\$14,502	\$15,704	108%	-\$1,202
County internal PM & ITS	\$3,000	\$0	\$3,000	\$1,942	65%	\$1,058
<b>TOTAL</b>	<b>\$2,449,605</b>	<b>\$894,589</b>	<b>\$1,555,017</b>	<b>\$1,296,677</b>	<b>83%</b>	<b>\$258,340</b>

OK

PW 20-16 A South Napa Shelter Phase II - HVAC Project  
Bid Opening: 2/9/2023

BIDS RECEIVED

Bidder: RBH Construction, Inc. of Folsom, CA  
Base Bid: \$443,944.00  
Additive Alternates: \$151,558.00  
Additive Alternates: \$52,669.00  
Grand Total: \$648,171.00

Bidder: Trahan Mechanical, Inc. of San Rafael, CA  
Base Bid: \$572,000.00  
Additive Alternates: \$192,800.00  
Additive Alternates: \$82,800.00  
Grand Total: \$847,600.00

Bidder: A&B Mechanical, Inc. of Livermore, CA  
Base Bid: \$729,900.00  
Additive Alternates: \$195,000.00  
Additive Alternates: \$89,900.00  
Grand Total: \$1,014,800.00

Bidder: DMR Builders of Santa Rosa, CA  
Base Bid: \$750,880.00  
Additive Alternates: \$162,000.00  
Additive Alternates: \$52,000.00  
Grand Total: \$964,880.00

Bidder: WestCal Design and Build, Inc. of Union City, CA  
Base Bid: \$795,000.00  
Additive Alternates: \$400,000.00  
Additive Alternates: \$80,000.00  
Grand Total: \$1,275,000.00



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0364

**TO:** Board of Supervisors

**FROM:** Steven Lederer, Director of Public Works

**REPORT BY:** Sydney Diede, Assistant Engineer

**SUBJECT:** Approval of Plans and Specifications and the Authorization to Advertise for Bids for the “2023 Berryessa Improvements Project” which includes RDS 22-05 (Berryessa Knoxville Road FLAP 1 Seal), RDS 22-13 (Berryessa Highlands Paving), RDS 23-05 (Berryessa Pines and Spanish Flat Paving), and RDS 23-16 (Steele Canyon Road Paving)

### **RECOMMENDATION**

Director of Public Works requests the following (4/5 vote required):

1. Approval of the Plans and Specifications for the “2023 Berryessa Improvements Project” (RDS 22-05, 22-13, 23-05, and 23-16), and the authorization to advertise for sealed bids and opening of the bids at the time, date, and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code;
2. Change Berryessa Pines/Spanish Flat Pavement Project (Fund 2040, Org 2040500, Project 23010) name to Berryessa Pines Paving Project;
3. Create new Capital Improvement Project for Spanish Flat Loop Road Paving Project (Fund 2040, Org 2040500, Project 23040); and
4. Approval of Budget Transfer for the following:
  - a. Increase appropriations by \$30,000 in the Accumulated Capital Outlay (ACO) (Fund 3000, Org 3000000, Object 56100) with the use of its available fund balance to transfer to Project 23040 (Fund 2040, Org 2040500, Object 48200); and
  - b. Increase appropriations by \$30,000 in Project 23040 (Fund 2040, Org 2040500, Object 52145) offset by a transfer-in revenue from the ACO.

### **EXECUTIVE SUMMARY**

Napa County is utilizing funds from Measure T to resurface RDS 22-05 (Berryessa Knoxville Road FLAP 1 Reach) and RDS 23-05 (Berryessa Pines); and Senate Bill 1 (SB-1) to resurface RDS 22-13 (Berryessa Highlands); and the Accumulated Capital Outlay fund to resurface RDS 23-05 (Spanish Flat Loop Road) and RDS 23-16 (Steele Canyon Road). The Plans and Specifications are complete and ready for approval.

RDS 23-05 is currently called the Berryessa Pines/Spanish Flat Pavement Project, but the two projects have different funding sources, thus we are requesting to separate them. Staff recommends that the Board create a new project and establish a budget within the new project (Spanish Flat Loop Road Paving Project).

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	RDS 22-05 (Berryessa Knoxville Road): Fund 2040, Org 2040500, Project 22027; RDS 22-13 (Berryessa Highlands): Fund 2040, Org 2040500, Project 22031; RDS 23-05 (Berryessa Pines and Spanish Flat Paving): Fund 2040, Org 2040500, Project 23010; and RDS 23-16 (Steele Canyon Road): Fund 2040, Org 2040500, Project 23027.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Approval of Plans and Specifications and Authorization to Advertise for sealed bids is necessary to move to the construction phase of the project.
Is the general fund affected?	Yes
Future fiscal impact:	Construction will begin in Fiscal Year 2022-23 and be completed by Fiscal Year 2023-24. There is no additional fiscal impact anticipated.
Consequences if not approved:	The project will not move forward to the construction phase and the damaged roads will not be repaired.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit
Additional Information:	The Board has authorized the following budget transfers: 1. <u>RDS 22-05, Berryessa Knoxville Road FLAP 1 Resurfacing</u> - Measure T Non-Operating Special Revenue Fund (M-T SRF) a. On July 12, 2022, the Board authorized a budget transfer of \$15,000 for preliminary design. b. On September 27, 2023, the Board authorized an additional budget transfer of \$15,000 for preliminary design. 2. <u>RDS 22-13, Berryessa Highlands Resurfacing</u> - SB-1 Non-Operating Special Revenue Fund (SB-1 SRF) a. On July 12, 2022, the Board authorized a budget transfer of \$35,000 for preliminary design. 3. <u>RDS 23-05, Berryessa Pines and Spanish Flat Loop Road Resurfacing</u> - M-T SRF a. On July 12, 2022, the Board authorized a budget transfer of \$30,000 for preliminary design. 4. <u>RDS 23-16, Steele Canyon Road Resurfacing</u> - Accumulated Capital Outlay Fund (ACO) a. On February 28, 2023, the Board authorized a budget transfer of \$50,000 for preliminary design.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption  
Class 1: It has been determined that this type of project does not have a significant effect on the environment



and is exempt from the California Environmental Quality Act. [See Class 1 (“Existing Facilities”) which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

## **BACKGROUND AND DISCUSSION**

The 2023 Berryessa Improvements Project combines several resurfacing projects within the Lake Berryessa region, into a single construction contract to save money by pursuing a larger economy of scale project. The projects, and their associated funding source, that are included in the 2023 Berryessa Improvements Project are the following:

- RDS 22-05, Berryessa Knoxville Road FLAP 1 Reach (from Pope Canyon Road to Spanish Flat Loop Road) - funded by Measure T;
- RDS 23-05, Berryessa Pines subdivision - funded by Measure T;
- RDS 23-05, Spanish Flat Loop Road - funded by the Accumulative Capital Outlay fund;
- RDS 22-13, Berryessa Highlands subdivision - funded by Senate Bill 1; and
- RDS 23-16, Steele Canyon Road (from Steele Resort Road to the end of the Berryessa Highlands subdivision) - funded by the Accumulative Capital Outlay (ACO) fund.

As RDS 23-05 contains two (2) different funding sources within a single project, Measure T and the Accumulative Capital Outlay Fund, staff requests separating the project as such: RDS 23-05 (Project 23010) Berryessa Pines Paving Project and RDS 23-05 (Project 23040) Spanish Flat Loop Road Paving Project. Staff also request a budget transfer from the Accumulative Capital Outlay (ACO) Fund in the amount of \$30,000 for preliminary design work and the bidding phase into Project 23040 for Spanish Flat Loop Road Paving.

Several of the roads within the 2023 Berryessa Improvements Project have not received any treatment since their original construction, while other roads have undergone slurry seals or full reconstruction. The roads that were previously treated will also receive repairs and treatment, as experience has demonstrated that it is essential to perform preventative maintenance to prolong the life span of a roadway at a lower cost, rather than reconstructing a road after it has failed at 10 to 30 times the cost of preventative maintenance.

The Berryessa Highlands subdivision is located by the south shore of Lake Berryessa and contains twenty-four roadways (including portions of Steele Canyon Road, which begins at Highway 128 and spans through the subdivision). Ten (10) roadways will undergo necessary dig out repairs to prepare the pavement for a cape seal surface treatment; whereas the remaining thirteen (13) roadways will require a mill and fill treatment to restore the damaged roads.

The Berryessa Pines (which contains three roads) will undergo an overlay to increase the pavement section of the road for greater strength and durability. Similarly, both Spanish Flat Loop Road and Steele Canyon Road (from Steele Resort Road to the end of the Berryessa Highlands) will receive an overlay. Berryessa Knoxville Road will undergo a single chip seal treatment for preventative maintenance of the FLAP 1 portion of the roadway that was reconstructed in 2015.

The Engineer's Estimate for the 2023 Berryessa Improvements Project is \$8,000,000. The Plans and Specifications are complete and ready for approval by the Board of Supervisors. The Director is requesting authorization to advertise for bids. Staff will return to the Board of Supervisors at the time of construction to present a detailed project budget based on the lowest responsible bid and to request a budget transfer to fund the construction.

**County of Napa**  
**Public Works Department**

BUDGET SUMMARY: BERRYESSA KNOXVILLE ROAD FLAP 1 SEAL: RDS 22-05 and Project 22027						
						3/3/2023
Budget Item	Budget Item Amount	Request Today	Board Appropriation To Date	Appropriation Amount Spent to Date	Appropriation % Spent to Date	Appropriation Amount Balance
Construction Contract	\$1,100,000	\$0	\$0	\$0	0%	\$0
10% Construction Contingency	\$110,000	\$0	\$0	\$0	0%	\$0
Design and Engineering / County Project Management	\$25,000	\$0	\$25,000	\$11,623	46%	\$13,377
Design and Engineering Contingency	\$5,000	\$0	\$5,000	\$0	0%	\$5,000
Construction Management (15% Construction Contract)	\$165,000	\$0	\$0	\$0	0%	\$0
Environmental, Geotechnical and Special Inspections	\$0	\$0	\$0	\$0	0%	\$0
Permits	\$0	\$0	\$0	\$0	0%	\$0
<b>TOTAL</b>	<b>\$1,405,000</b>	<b>\$0</b>	<b>\$30,000</b>	<b>\$11,623</b>	<b>46%</b>	<b>\$18,377</b>

**County of Napa**  
**Public Works Department**

BUDGET SUMMARY: BERRYESSA HIGHLANDS PAVING: RDS 22-13 and Project 22031						
						3/3/2023
Budget Item	Budget Item Amount	Request Today	Board Appropriation To Date	Appropriation Amount Spent to Date	Appropriation % Spent to Date	Appropriation Amount Balance
Construction Contract	\$1,700,000	\$0	\$0	\$0	0%	\$0
10% Construction Contingency	\$170,000	\$0	\$0	\$0	0%	\$0
Design and Engineering / County Project Management	\$25,000	\$0	\$25,000	\$23,823	95%	\$1,177
Design and Engineering Contingency	\$5,000	\$0	\$5,000	\$0	0%	\$5,000
Construction Management (15% Construction Contract)	\$255,000	\$0	\$0	\$0	0%	\$0
Environmental, Geotechnical and Special Inspections	\$5,000	\$0	\$5,000	\$0	0%	\$5,000
Permits	\$0	\$0	\$0	\$0	0%	\$0
<b>TOTAL</b>	<b>\$2,160,000</b>	<b>\$0</b>	<b>\$35,000</b>	<b>\$23,823</b>	<b>95%</b>	<b>\$11,177</b>

**County of Napa**  
**Public Works Department**

BUDGET SUMMARY: BERRYESSA PINES PAVING: RDS 23-05 and Project 23010						
						3/3/2023
Budget Item	Budget Item Amount	Request Today	Board Appropriation To Date	Appropriation Amount Spent to Date	Appropriation % Spent to Date	Appropriation Amount Balance
Construction Contract	\$835,000	\$0	\$0	\$0	0%	\$0
10% Construction Contingency	\$83,500	\$0	\$0	\$0	0%	\$0
Design and Engineering / County Project Management	\$20,000	\$0	\$20,000	\$5,396	27%	\$14,604
Design and Engineering Contingency	\$5,000	\$0	\$5,000	\$0	0%	\$5,000
Construction Management (15% Construction Contract)	\$125,250	\$0	\$0	\$0	0%	\$0
Environmental, Geotechnical and Special Inspections	\$5,000	\$0	\$5,000	\$0	0%	\$5,000
Permits	\$0	\$0	\$0	\$0	0%	\$0
<b>TOTAL</b>	<b>\$1,073,750</b>	<b>\$0</b>	<b>\$30,000</b>	<b>\$5,396</b>	<b>27%</b>	<b>\$24,604</b>

**County of Napa**  
**Public Works Department**

BUDGET SUMMARY: SPANISH FLAT PAVING: RDS 23-05 and Project 23040						
						3/3/2023
Budget Item	Budget Item Amount	Request Today	Board Appropriation To Date	Appropriation Amount Spent to Date	Appropriation % Spent to Date	Appropriation Amount Balance
Construction Contract	\$550,000	\$0	\$0	\$0	0%	\$0
10% Construction Contingency	\$55,000	\$0	\$0	\$0	0%	\$0
Design and Engineering / County Project Management	\$20,000	\$20,000	\$0	\$0	0%	\$0
Design and Engineering Contingency	\$5,000	\$5,000	\$0	\$0	0%	\$0
Construction Management (15% Construction Contract)	\$82,500	\$0	\$0	\$0	0%	\$0
Environmental, Geotechnical and Special Inspections	\$5,000	\$5,000	\$0	\$0	0%	\$0
Permits	\$0	\$0	\$0	\$0	0%	\$0
<b>TOTAL</b>	<b>\$717,500</b>	<b>\$30,000</b>	<b>\$0</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>

**County of Napa**  
**Public Works Department**

BUDGET SUMMARY: STEELE CANYON ROAD PAVING: RDS 23-16 and Project 23027						
						3/3/2023
Budget Item	Budget Item Amount	Request Today	Board Appropriation To Date	Appropriation Amount Spent to Date	Appropriation % Spent to Date	Appropriation Amount Balance
Construction Contract	\$3,050,000	\$0	\$0	\$0	0%	\$0
10% Construction Contingency	\$305,000	\$0	\$0	\$0	0%	\$0
Design and Engineering / County Project Management	\$20,000	\$0	\$20,000	\$0	0%	\$20,000
Design and Engineering Contingency	\$5,000	\$0	\$10,000	\$0	0%	\$10,000
Construction Management (15% Construction Contract)	\$457,500	\$0	\$0	\$0	0%	\$0
Environmental, Geotechnical and Special Inspections	\$20,000	\$0	\$20,000	\$0	0%	\$20,000
Permits	\$0	\$0	\$0	\$0	0%	\$0
<b>TOTAL</b>	<b>\$3,857,500</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>0%</b>	<b>\$50,000</b>



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0387

---

**TO:** Board of Supervisors

**FROM:** Steven Lederer - Director of Public Works

**REPORT BY:** Amanda Exum, Staff Services Analyst I

**SUBJECT:** Professional Services Agreement with Facilities By Design for Space Planning, Design, and Furniture Coordination Services

---

### **RECOMMENDATION**

Director of Public Works requests approval of and authorization for the Chair to sign Agreement No. 230342B with Facilities By Design for the term of July 1, 2023 through June 30, 2026 with an automatic annual renewal not to exceed two years, and an annual maximum compensation of \$150,000 for professional space planning, design, and furniture coordination services.

### **EXECUTIVE SUMMARY**

Napa County Public Works released a Request for Proposals (RFP) for on-call commercial and professional office space planning, design, and furniture coordination services. As a result of the Request for Proposals process, Facilities by Design has been selected as the service provider. Approval of this agreement will allow the County to have contracted space planning, design, and furniture coordination services as needed at all County owned and operated facilities through June 30, 2028.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Various departments encumber as needed.
Is it Mandatory or Discretionary?	Discretionary



Discretionary Justification:	Utilizing a professional space planner independent of specific merchants and product lines allows for unbiased space planning, design, coordination, and acquisition of furniture for County facility needs. Additionally, current staff may not possess the required specialized training, certifications, or functional experience to complete such tasks.
Is the general fund affected?	Yes
Future fiscal impact:	Each department utilizing space planning, design, or coordination will budget and encumber a portion of the contract, up to a maximum County-wide compensation of \$150,000 per fiscal year.
Consequences if not approved:	If not approved, space planning and related duties that would have otherwise been performed by an outside professional may be assigned to County staff thus reducing concentrated efforts on other public projects.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Professional space planning services have been provided to the County by Paula Stabler, Principal of Facilities by Design since 2002. The current contract is set to expire on June 30, 2023. As part of a competitive procurement process for professional space planning services in accordance with County purchasing policy, County staff issued a Request for Proposals (RFP) on November 16, 2022. Six companies submitted proposals which were scored according to predetermined weighted criteria: company history, experience, qualifications, approach to scope of work, and pricing.

Facilities by Design distinguished themselves as the most qualified company and was selected by the panel to provide Napa County with space planning, design, and furniture coordination services. Today's action will approve a professional services agreement with Facilities by Design effective July 1, 2023, with a maximum compensation amount of \$150,000 per fiscal year in years 1-3, with the option for automatic renewal for years 4-5.

NAPA COUNTY AGREEMENT NO. 230342B

PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and Facilities By Design whose business address is 5755 Mountain Hawk Drive, Suite 203, Santa Rosa, California 95409, hereinafter referred to as "CONTRACTOR";

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to provide the County of Napa with space planning, design, and furniture coordination services; and

**WHEREAS**, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein; and

**TERMS**

**NOW, THEREFORE**, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the terms and conditions set forth herein:

1. **Term of the Agreement.** The term of this Agreement shall commence on July 1, 2023 and shall expire on June 30, 2026, 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 CONTRACTOR to COUNTY 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). The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed two (2) additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30.

2. **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A", attached hereto, in addition to the RFP and CONTRACTOR's proposal, incorporated by reference herein.

3. **Compensation.**

(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates set forth in Exhibit "B", attached hereto and incorporated by reference herein.

(b) Expenses. No travel or other expenses will be reimbursed by COUNTY.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000) for professional services per fiscal year; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. **Method of Payment.**

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked, a detailed description of the tasks completed during the billing period, the names of person(s) performing the services and the position(s) held by such person(s), and the approved hourly or task rate.

(b) Expenses. If the Agreement provides for expense reimbursement, requests for reimbursement shall describe the nature and cost of the expense, the date incurred. With the exception of per diem reimbursements, receipts must be attached.

(c) Fixed Price. If the Agreement provides for a fixed price, if CONTRACTOR presents interim invoices, CONTRACTOR must state the percentage of work completed, which must be verified by COUNTY, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

(d) CONTRACTOR shall submit invoices not more often than monthly to the Public Works Administrative Manager 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. A sample invoice showing the level of detail required is attached as Exhibit "C".

(e) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR 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 Public Works Administrative Manager upon request in a form 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 CONTRACTOR within the State of California.

5. **Independent Contractor.** CONTRACTOR shall perform this Agreement as an independent contractor. CONTRACTOR and the officers, agents and employees of CONTRACTOR are not, and shall not be deemed, COUNTY employees for any purpose, including workers' compensation and employee benefits. CONTRACTOR shall, at CONTRACTOR's own risk and expense, determine the method and manner by which duties

imposed on CONTRACTOR by this Agreement shall be performed; provided, however, that COUNTY may monitor the work performed by CONTRACTOR. COUNTY shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes, unless required to do so by court order. As between the parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONTRACTOR, including the agents or employees of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR 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, COUNTY, in addition to any other rights or remedies which COUNTY may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

7. **Insurance.** CONTRACTOR 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 following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR'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.

(b) Liability Insurance. CONTRACTOR 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:**

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) 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 CONTRACTOR or any officer, agent, or employee of CONTRACTOR 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 CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(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 CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. 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 of Coverage. All insurance coverages referenced in 7(b), 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 CONTRACTOR with the Department of Public Works prior to commencement of performance of any of CONTRACTOR's duties.

(1) 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, other termination, or material change, 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 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file an endorsement waiving subrogation with the evidence of coverage.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 request by COUNTY's Risk Manager, CONTRACTOR 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, 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 CONTRACTOR 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 CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR 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 full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless COUNTY and its officers, agents, employees, volunteers, or 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 CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees, volunteers, representatives, or other contractors or their subcontractors. 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, providing 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. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR 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, CONTRACTOR shall hold COUNTY and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR'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). The Napa County Purchasing Agent or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

10. **Other Termination.** This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party specifying the effective date thereof at least thirty (30) days prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

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

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a party under Paragraph 10:

(1) To the extent CONTRACTOR has provided services through Software and Applications materials licensed to COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY is comprehensive of the data previously hosted by CONTRACTOR.

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof. Notwithstanding the foregoing and to the extent services under this Agreement involve the development of previously patented inventions or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(b) CONTRACTOR 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 CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

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.

COUNTY

Napa County Department of Public Works  
1195 Third Street, Suite 101  
Napa, CA 94559

CONTRACTOR

Facilities By Design  
5755 Mountain Hawk Drive  
Suite 203  
Santa Rosa, CA 95409

14. **Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR 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 COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective June 20, 2017.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.



(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

**15. Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of COUNTY, expressed through its Director of Public Works. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR. Additionally, CONTRACTOR shall only access, use or disclose County Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with County. Any other access, use or disclosure of County Protected Information is prohibited. Examples of prohibited accesses, uses and disclosures include, but are not limited to: the removal of confidential files, documents or devices containing County Protected Information from a County facility; the unauthorized transmission of County Protected Information via email, fax or other means; and the discussion of such information with other individuals (including other CONTRACTOR or County employees) who do not have a County approved business reason to obtain the information.

(2) CONTRACTOR shall ensure that its staff and any third party organizations or individuals that it engages to perform services in conjunction with the terms of this agreement are trained to its privacy and security policies, as well as Paragraph 15 of this agreement; and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of. This includes instances wherein CONTRACTOR encounters unsecured Protected Information in areas where CONTRACTOR employees are performing services.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of COUNTY's Protected Information, or

its unauthorized access to or disclosure of COUNTY's Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

**16. No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONTRACTOR 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 CONTRACTOR. Failure of CONTRACTOR 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 CONTRACTOR 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.** CONTRACTOR 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, CONTRACTOR 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 (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY 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 CONTRACTOR 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. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR 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. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

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

(d) Prevailing Wages. [RESERVED]

20. **Taxes.** CONTRACTOR 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. CONTRACTOR agrees to indemnify and hold COUNTY harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and

obligations. In the event that COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** COUNTY, 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 CONTRACTOR 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, CONTRACTOR shall maintain all required records for at least seven (7) years after COUNTY makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** CONTRACTOR and COUNTY 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. CONTRACTOR 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 its services or confidentiality obligation hereunder, except as such as COUNTY may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR 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 CONTRACTOR, although holding a "designated" position as a 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.

CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY's Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

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. **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.

28. **Special Terms and Conditions. [RESERVED]**

29. **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.

30. **Electronic Signatures.** This Agreement may be executed by electronic signature(s) and transmitted in a portable document format ("PDF") version by email and such electronic signature(s) shall be deemed original for purposes of this Agreement and shall have the same force and effect as a manually executed original.

*[Remainder of page left blank intentionally; signature page follows.]*

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

FACILITIES BY DESIGN

By Paula Stabler  
PAULA STABLER, Principal

NAPA COUNTY, a political subdivision of  
the State of California

By \_\_\_\_\_  
BELIA RAMOS, Chair  
Board of Supervisors

"COUNTY"

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Jason M. Dooley</u> Deputy County Counsel</p> <p>Date: <u>February 22, 2023</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
---	--	--

## **EXHIBIT "A"**

### **SCOPE OF WORK**

CONTRACTOR shall provide COUNTY with the following services:

#### **I. DESCRIPTION OF SERVICES**

CONTRACTOR shall provide COUNTY with space planning, design, and furniture coordination services for projects varying in scope and budget on an as-needed basis.

##### **A. Objectives**

- 1) Provide space planning, design, and furniture coordination services that are independent of specific merchants or product lines.
- 2) Implement creative planning techniques to design spaces that are economical, cost-effective, and reduce the need for additional furniture acquisition.
- 3) Integrate existing resources such as furnishings and County surplus property when feasible.
- 4) Optimize functionality of spaces to promote higher workplace productivity and organization.
- 5) Incorporate ergonomically friendly components.
- 6) Create safe, comfortable, and inviting atmospheres for customers and employees.
- 7) Accommodate persons with varying levels of mobility and comply with standards set forth in the Americans with Disabilities Act (ADA).

##### **B. Deliverables**

- 1) Collaborate with management and other Napa County representatives to define and develop design plans, negotiate costs with subcontractors, and set project timelines.
- 2) Provide written proposals for each project including a detailed scope of work, estimated number of hours required for each classification of labor, estimated number of site visits, estimated cost of materials, and identification of outside contractors and their rates, if applicable.
- 3) Obtain written approval from Director of Public Works, or designee, prior to the commencement of any project. Invoices for work conducted without this specific approval may be denied.
- 4) Obtain written approval from Director of Public Works, or designee, for significant revisions to the scope or cost of a project prior to the commencement of additional work. Invoices for work conducted without this specific approval may be denied.
- 5) Provide regular project updates to Department stakeholders and the Director of Public Works, or designee.
- 6) As reasonably required, generate written reports, computer generated diagrams, or 2D/3D Auto CAD drawings of proposed final projects that demonstrate a clear understanding of project scopes and Napa County's goals and vision.
- 7) Perform or assist with project management activities which may include coordination with various County Departments including Property Management.
- 8) Coordinate furniture procurement, delivery, dismantling, transport to and from storage, and installation with the Department of Public Works and other County Departments, as needed.
- 9) Comply with County purchasing policy as may change from time to time, including but not limited to the following: providing three (3) quotes for goods and orders with an estimated cost greater than \$1,000; ensuring that prevailing wage is quoted for work with a cost of over \$1,000; ensuring that

vendors providing quotes are registered with the California Department of Industrial Relations for maintenance projects over \$15,000 and improvement projects over \$25,000; requesting that appropriate bonds are quoted to be provided by vendors for projects exceeding \$25,000.

**II. SERVICES AND WARRANTIES NOT INCLUDED.** The services provided by CONTRACTOR shall not include the following services or warranties:

**A. Construction Contracting.** The Services provided by CONTRACTOR under this Agreement shall not include acting as the General Contractor on any construction or furniture-related COUNTY projects. In connection with such projects, CONTRACTOR's evaluation and/or recommendation of any general contractors, subcontractors, or consultants is for the convenience of COUNTY and shall not be construed as a guarantee by CONTRACTOR of the work performed by any contractors, subcontractors, or consultants engaged by COUNTY. COUNTY shall be solely responsible for making its own independent evaluation of the qualifications of any such contractors engaged by COUNTY.

**B. Project Inspection and Oversight.** CONTRACTOR shall visit COUNTY project sites as deemed necessary by COUNTY and CONTRACTOR, or as otherwise agreed upon in writing by COUNTY and CONTRACTOR for the purpose of becoming familiar with progress and quality of work and to determine whether the work is proceeding in accordance with the approved drawings and specifications. However, CONTRACTOR shall not be required to make exhaustive or continuous inspections of COUNTY project sites. CONTRACTOR shall not be responsible for the means, methods, or sequences of construction of any COUNTY general contractors or subcontractors. Notwithstanding the foregoing, CONTRACTOR shall keep COUNTY informed of the progress and quality of work observed by CONTRACTOR while at COUNTY project sites.

**C. Project Delays by Third Parties.** CONTRACTOR shall not be responsible for delays to COUNTY construction or furniture projects that are the result of the actions of any person or persons outside the control of CONTRACTOR.

**D. Wear, Fading, or Latent Defect Product Guarantees.** CONTRACTOR does not guarantee any fabric, material, or product purchased by COUNTY against wear, fading, or latent defects.

**III. RIGHTS IN DESIGN PROJECTS.** CONTRACTOR shall have the right to photograph any and all COUNTY projects for which CONTRACTOR has provided design, space planning, or consulting services, and COUNTY agrees that CONTRACTOR shall be given credit for any and all projects designed by CONTRACTOR. Notwithstanding the foregoing, CONTRACTOR shall have no right to patent or copyright any design or product produced by CONTRACTOR under this Agreement, unless such design or product was created, and the rights therein protected by CONTRACTOR prior to execution of the Agreement.

**IV. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.** As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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. 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.



**EXHIBIT “B”**

**COMPENSATION AND EXPENSE REIMBURSEMENT**

CONTRACTOR shall be reimbursed at the following rates:

<b><u>LABOR RATES</u></b>		
<b>POSITION TITLE</b>	<b>HOURLY RATE – Years 1-3 July 1, 2023-June 30, 2026</b>	<b>HOURLY RATE – Years 4-5 July 1, 2026-June 30, 2028</b>
Principal	120.00	\$125.00
Senior Designer	\$100.00	\$105.00
Project Administrator	\$85.00	\$90.00
Project Support	\$75.00	\$80.00
Out-Sourced Professionals	At Cost	At Cost

<b><u>ADDITIONAL RATES</u></b>		
<b>SERVICE</b>	<b>RATE – Years 1-3 July 1, 2023-June 30, 2026</b>	<b>RATE – Years 4-5 July 1, 2026-June 30, 2028</b>
Travel Time	Hourly Rates as Listed for Services Above	Hourly Rates as Listed for Services Above
Reimbursable Expenses	Cost Plus Handling Fee	Cost Plus Handling Fee

**EXHIBIT "C"**

[Company Name]  
 [Street Address]  
 [City, ST ZIP Code]  
 Phone [phone] Fax [fax]  
 Taxpayer ID #

**SAMPLE  
INVOICE**

INVOICE # \_\_\_\_\_  
 DATE: \_\_\_\_\_

**TO:**

[Customer Name]  
 [Street Address]  
 [City, ST ZIP Code]

**FOR:**

[Project or service description]  
 Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St, Napa. Conf w/Owner AutoCad, Bldg X, 3 <sup>rd</sup> Floor	Smith, Engineer	1.5	\$165.00	247.50
1/1/15		Smith, Engineer	1	\$165.00	165.00
1/1/15		Smith, Engineer	4	\$165.00	660.00
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15	AutoCad Bldg X, 3 <sup>rd</sup> Floor Conf w/Owner re 2 <sup>nd</sup> Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15		Smith, Engineer	.5	\$165.00	82.50
1/3/15	Mtg w/Jones re 2 <sup>nd</sup> Floor; conf w/Owner Mtg w/Smith; conf w/Owner re 2 <sup>nd</sup> Floor	Smith, Engineer	1.5	\$165.00	247.50
1/3/15		Jones, PE	1.5	\$195.00	292.50
TOTAL					



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0419

---

**TO:** Board of Supervisors

**FROM:** Steven Lederer- Director of Public Works Airport

**REPORT BY:** Katherine Bales, Assistant Airport Manager

**SUBJECT:** Budget Adjustment and Establishment of a Capital Asset for a Utility Cart at the Airport

---

### **RECOMMENDATION**

Director of Public Works requests approval of a Budget Adjustment increasing appropriations in the Airport Operations Capital Asset account (Fund 5010, Org 5010000, Object 55400) by \$9,299 with an offsetting decrease to fund balance and establishment of a Capital Asset in the amount of \$9,299 for the purchase of a 2022 EZGO RXV battery powered Utility Cart for the Airport (4/5 vote required).

### **EXECUTIVE SUMMARY**

The Airport is in need of purchasing a battery powered Utility Cart to maintain and respond to different areas of the airfield. Staff offices are located within different areas of the 600+ acre Airport property and staff is routinely dispatched to various areas requiring driving mobility. Airport Operations is fully staffed and is currently operating with limited equipment. The Utility Cart will be used by staff to respond to various maintenance, inspections, and emergency needs at the Airport. The proposed action will establish a capital asset in the Airport Division and authorize the Airport to purchase a battery powered Utility Cart.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Budget transfer is proposed and funds will come from Airport Fund Balance (Fund 5010, Org 5010000).
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	Purchase of a new battery powered utility cart is needed to maintain the Airport's Area of Operations. Airport staff are widely spread out over 600+ acres of property and need mobility with specific characteristics for safety and security of the airfield.
Is the general fund affected?	No
Future fiscal impact:	Normal maintenance costs only. Estimated \$1,000 over a 5-year period. These costs will be included in future Airport Operations budgets.
Consequences if not approved:	If not approved, the airport will not be able to adequately dispatch staff for various maintenance, inspections, and emergency tasks.
County Strategic Plan pillar addressed:	Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

The proposed action will authorize Napa County Public Works Airport Division to purchase a 2022 EZGO RXV battery powered Utility Cart for staff mobility and maintenance needs on Airport property. Staff routinely responds to various terrain and operational needs throughout 600+ acres. Adding a battery powered utility cart will enable our staff to use the current F250 truck and John Deere 4x4 utility vehicle for airfield purposes that require 4x4 capabilities while other staff utilize the utility cart to perform regular maintenance throughout the hangar spaces and on paved areas.

The Utility Cart purchase includes a utility bed, airfield radio brackets, LED Lighting kit, and fast charger. The lighting kit is required to comply with the Federal Aviation Administration airfield standards. The utility bed has versatility and allows airport staff to respond to various tasks. Being battery powered with fast charging capabilities, it has zero-carbon emissions.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0363

**TO:** Board of Supervisors  
**FROM:** Tracy Schulze, Auditor-Controller  
**REPORT BY:** Kaitlin Ager, Principal Grant Compliance Auditor  
**SUBJECT:** Single Audit Report for Fiscal Year Ended June 30, 2022

### **RECOMMENDATION**

Auditor-Controller requests acceptance of the County's Single Audit Report for the fiscal year ended June 30, 2022.

### **EXECUTIVE SUMMARY**

The County's Single Audit report is being submitted for review and acceptance. The report is attached and on file with the Clerk of the Board.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No  
County Strategic Plan pillar addressed: Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

California Government Code Section 12410.5 and Federal Code of Regulations 2 CFR 200.512 address the requirements of the County to prepare and file a Single Audit Report with the State Controller and Federal Audit Clearinghouse. The Single Audit is required for any governmental or non-profit entity that spends \$750,000 of Federal funding in a single fiscal year and comprises of additional testing and procedures to review the compliance and accurate reporting of each expenditure. During the fiscal year, the County had expenditures of approximately \$58 million in Federal cash awards (including pass-throughs to subrecipients), continues tracking almost \$10 million in Federal loan awards, and distributed \$1.2 million in non-cash assistance (nutrition assistance vouchers), for a total of approximately \$69 million in Federal funding. The audit report before you today has an unmodified (clean) opinion from the County's external auditors, Brown Armstrong Accountancy Corporation. Additionally, there were no findings or questioned costs disclosed in the report for the audit year.

The Single Audit has been prepared based on Federal guidelines and must be completed and accepted by the Board of Supervisors no later than March 31, 2023. A copy of this report is attached and will be made available to the public through the County's website.

**COUNTY OF NAPA**  
**SINGLE AUDIT REPORT**  
**JUNE 30, 2022**

**COUNTY OF NAPA  
SINGLE AUDIT REPORT  
FOR THE YEAR ENDED JUNE 30, 2022**

**TABLE OF CONTENTS**

	<u>Page</u>
<u>Reports</u>	
Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i> .....	1
Independent Auditor's Report on Compliance for Each Major Federal Program and on Internal Control Over Compliance Required by the Uniform Guidance .....	3
<u>Schedule</u>	
Schedule of Expenditures of Federal Awards .....	6
Notes to Schedule of Expenditures of Federal Awards .....	11
<u>Findings and Questioned Costs</u>	
Schedule of Findings and Questioned Costs .....	14
Summary Schedule of Prior Year Audit Findings .....	16
Supplementary Schedule of the California Office of Emergency Services and the Board of State and Community Corrections Grant Expenditures .....	17

## REPORTS



**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN  
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

The Honorable Board of Supervisors and Grand Jury  
County of Napa  
Napa, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of the County of Napa, California (the County), as of and for the year ended June 30, 2022, and the related notes to the financial statements, which collectively comprise the County's basic financial statements, and have issued our report thereon dated December 30, 2022.

**Report on Internal Control over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the County's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control. Accordingly, we do not express an opinion on the effectiveness of the County's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the County's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

**Report on Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the County's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an

objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### **Purpose of This Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the County's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the County's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

BROWN ARMSTRONG  
ACCOUNTANCY CORPORATION

A handwritten signature in blue ink that reads "Brown Armstrong Accountancy Corporation". The signature is written in a cursive, flowing style.

Bakersfield, California  
December 30, 2022

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH  
MAJOR FEDERAL PROGRAM AND ON INTERNAL CONTROL OVER  
COMPLIANCE REQUIRED BY THE UNIFORM GUIDANCE**

The Honorable Board of Supervisors and Grand Jury  
County of Napa  
Napa, California

**Report on Compliance for Each Major Federal Program**

***Opinion on Each Major Federal Program***

We have audited the County of Napa, California's (the County) compliance with the types of compliance requirements identified as subject to audit in the U.S. Office of Management and Budget (OMB) *Compliance Supplement* that could have a direct and material effect on each of the County's major federal programs for the year ended June 30, 2022. The County's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

In our opinion, the County complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2022.

***Basis for Opinion on Each Major Federal Program***

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the County and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of the County's compliance with the compliance requirements referred to above.

***Responsibilities of Management for Compliance***

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules, and provisions of contracts or grant agreements applicable to the County's federal programs.

## ***Auditor's Responsibilities for the Audit of Compliance***

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the County's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the County's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the County's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the County's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

## **Report on Internal Control over Compliance**

*A deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

## Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of the County, as of and for the year ended June 30, 2022, and the related notes to the financial statements, which collectively comprise the County's basic financial statements. We issued our report thereon dated December 30, 2022, which contained unmodified opinions on those financial statements. Our audit was performed for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements.

The accompanying Schedule of Expenditures of Federal Awards and Supplementary Schedule of the California Office of Emergency Services and the Board of State and Community Grant Expenditures are presented for purposes of additional analysis as required by the Uniform Guidance and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Schedule of Expenditures of Federal Awards and Supplementary Schedule of the California Office of Emergency Services and the Board of State and Community Corrections Grant Expenditures are fairly stated in all material respects in relation to the basic financial statements as a whole.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

BROWN ARMSTRONG  
ACCOUNTANCY CORPORATION

*Brown Armstrong*  
*Accountancy Corporation*

Bakersfield, California  
March 2, 2023

## **SCHEDULE**

**County of Napa**  
**Schedule of Expenditures of Federal Awards**  
**For the Year Ended June 30, 2022**

Federal Grantor/Pass-Through Grantor/Program Title	Assistance Listing	Pass-Through Grant Award Number	Expenditures	Expenditures to Subrecipients
<b>U.S. Department of Agriculture</b>				
Passed through the State Department of Food and Agriculture:				
European Grapevine Moth - Detection	10.025	20-1036-023-SF	\$ 68,821	\$ -
European Grapevine Moth - Detection	10.025	21-0595-015-SF	150,211	-
County GWSS Program	10.025	19-0727-018-SF	184,992	-
Asian Citrus Psyllid	10.025	21-0516-010-SF	19,676	-
Exotic Pest Detection Trapping	10.025	20-0132-1	262,682	-
Subtotal 10.025			686,382	-
Passed through the State Department of Education:				
School Breakfast Program	10.553	2012-SN-28-R	8,159	-
National School Lunch Program	10.555	2012-SN-28-R	15,506	-
Subtotal 10.553 and 10.555 (Child Nutrition Cluster)			23,665	-
Passed through the State Department of Public Health:				
WIC Supplemental Nutrition Program	10.557	19-10164	936,704	-
WIC Farmer's Market Nutrition Program (FMNP)	10.572	19-10164	500	-
Nutrition Education and Obesity Prevention	10.561	19-10375	127,347	122,798
Passed through the State Department of Social Services:				
State Administrative Matching Grants for the Supplemental Nutrition Assistance Program	10.561	-	3,767,801	-
Subtotal 10.561 (SNAP Cluster)			3,895,148	122,798
<b>Total U.S. Department of Agriculture</b>			<b>5,542,399</b>	<b>122,798</b>
<b>U.S. Department of Housing and Urban Development</b>				
Direct Programs:				
Continuum of Care Planning	14.267	CA1858L9T171900	21,542	21,542
Continuum of Care Planning	14.267	CA1933L9T172000	22,620	22,620
Homeless Management Information System (HMIS) 2020	14.267	CA0289L9T172011	17,227	17,227
Homeless Management Information System (HMIS) 2021	14.267	CA0289L9T172112	17,755	17,755
Home to Stay 2020	14.267	CA0293L9T172013	139,352	139,352
Subtotal 14.267			218,496	218,496
Permanent Supportive Housing Consolidated 2019	14.273	CA1415L9T171904	9,563	9,563
Permanent Supportive Housing Consolidated 2020	14.273	CA1415L9T172005	118,563	118,563
Coordinated Assessments 2020	14.273	CA1482L9T172005	19,054	19,054
Subtotal 14.273			147,180	147,180
Passed through the State Department of Housing and Community Development:				
Emergency Solutions Grant Program (ESG)	14.231	18-ESG-12351	27,290	27,290
Emergency Solutions Grant Program (ESG)	14.231	19-ESG-13151	51,858	51,858
Emergency Solutions Grant Program (ESG)	14.231	20-ESG-15593	47,029	47,029
COVID-19 Emergency Solutions Grant Coronavirus Aid, Relief, and Economic Security Act (CARES)	14.231	20ESGCV1-00028	496,716	-
Subtotal 14.231			622,893	126,177
<b>Total U.S. Department of Housing and Urban Development</b>			<b>988,569</b>	<b>491,853</b>
<b>U.S. Department of the Interior</b>				
Direct Programs:				
Payment in Lieu of Taxes (PILT)	15.226	-	177,267	-
Recreation Resources Management - Lake Berryessa	15.524	R22AG00192	235,433	-
Passed through the State Controller's Office:				
Federal Grazing Fee	15.227	-	124	-
<b>Total U.S. Department of the Interior</b>			<b>412,824</b>	<b>-</b>

See Accompanying Notes to Schedule of Expenditures of Federal Awards.

**County of Napa**  
**Schedule of Expenditures of Federal Awards (Continued)**  
**For the Year Ended June 30, 2022**

<b>Federal Grantor/Pass-Through Grantor/Program Title</b>	<b>Assistance Listing</b>	<b>Pass-Through Grant Award Number</b>	<b>Expenditures</b>	<b>Expenditures to Subrecipients</b>
<b>U.S. Department of Justice</b>				
Direct Programs:				
Domestic Cannabis Eradication/Suppression Program (DCESP)	16.U01	2021-30	30,617	-
Domestic Cannabis Eradication/Suppression Program (DCESP)	16.U02	2022-30	30,238	-
Subtotal 16.000			60,855	-
COVID-19 Coronavirus Emergency Supplemental Funding Program	16.034	2020-VD-BX-1625	9,870	-
Passed through Governor's Office of Emergency Services, California:				
Napa Victim/Witness Assistance	16.575	VW20110280	92,016	-
Napa Victim/Witness Assistance	16.575	VW21120280	156,551	-
Unserved/Underserved Victim Advocacy and Outreach	16.575	UV20050280	102,965	-
Unserved/Underserved Victim Advocacy and Outreach	16.575	UV20030280	59,146	-
Unserved/Underserved Victim Advocacy and Outreach	16.575	UV21040280	22,845	-
Unserved/Underserved Victim Advocacy and Outreach	16.575	UV21060280	45,220	-
County Victim Services Program	16.575	XC20030280	53,422	-
County Victim Services Program	16.575	XC21040280	19,285	-
Child Advocacy Center Program	16.575	KC20040280	157,257	-
Child Advocacy Center Program	16.575	KC21050280	1,511	-
Subtotal 16.575			710,218	-
<b>Total U.S. Department of Justice</b>			<b>780,943</b>	<b>-</b>
<b>U.S. Department of Transportation</b>				
Direct Programs:				
Airport Improvement Program	20.106	3-06-0162-042-2020	252,198	-
Airport Improvement Program	20.106	3-06-0162-045-2022	148,000	-
Subtotal 20.106			400,198	-
Passed through the State Department of Transportation:				
Highway Planning and Construction - Dry Creek Road	20.205	BRLO-5921 (061)	522,913	-
Highway Planning and Construction - Greenwood Ave over Garnett Creek	20.205	BRLO-5921 (068)	135,075	-
Highway Planning and Construction - Chiles-Pope Valley Road	20.205	BRLS-5921 (074)	164,181	-
Highway Planning and Construction - Silverado Trail Guardrail	20.205	HSIPL-5921 (079)	22,345	-
Highway Planning and Construction - Silverado Trail	20.205	HSIPL-5921 (080)	25,321	-
Highway Planning and Construction - 2020 LNU Fire - Guardrails	20.205	ER-15A5(020)	1,103,158	-
Highway Planning and Construction - 2020 Glass - Guardrails	20.205	ER-15A6(006)	825,868	-
Highway Planning and Construction - 2020 Glass - Silverado Trail Culvert	20.205	ER-15A6(007)	4,545	-
Subtotal 20.205 (Highway Planning and Construction Cluster)			2,803,406	-
<b>Total U.S. Department of Transportation</b>			<b>3,203,604</b>	<b>-</b>
<b>U.S. Department of the Treasury</b>				
Direct Programs:				
COVID-19 Coronavirus State and Local Fiscal Recovery Funds (ARPA)	21.027	-	14,447,925	-
<b>Total U.S. Department of the Treasury</b>			<b>14,447,925</b>	<b>-</b>
<b>U.S. Institute of Museum and Library Services</b>				
Passed through the State Library:				
Memory Lab	45.310	40-9107	12,257	-
<b>Total U.S. Institute of Museum and Library Services</b>			<b>12,257</b>	<b>-</b>
<b>U.S. Environmental Protection Agency</b>				
Direct Programs:				
SF Bay Water Quality Improvement Fund - Napa River	66.126	W9-99T70901	57,881	-
SF Bay Water Quality Improvement Fund - Napa River	66.126	W9-99T87101	2,500	-
Subtotal 66.126			60,381	-
Passed through the State Water Resources Control Board:				
Napa River Restoration Oakville to Oak Knoll Project	66.460	D201313207	509,278	-
<b>Total U.S. Environmental Protection Agency</b>			<b>569,659</b>	<b>-</b>
<b>U.S. Election Assistance Commission</b>				
Passed through the Secretary of State:				
Voting System Replacement	90.401	18G30128	236,390	-
<b>Total U.S. Election Assistance Commission</b>			<b>236,390</b>	<b>-</b>

See Accompanying Notes to Schedule of Expenditures of Federal Awards.



**County of Napa**  
**Schedule of Expenditures of Federal Awards (Continued)**  
**For the Year Ended June 30, 2022**

Federal Grantor/Pass-Through Grantor/Program Title	Assistance Listing	Pass-Through Grant Award Number	Expenditures	Expenditures to Subrecipients
<b>U.S. Department of Health and Human Services</b>				
Passed through the State Department of Public Health:				
Centers For Disease Control and Prevention: Bioterrorism	93.069	17-10176	131,038	-
Tuberculosis Grant	93.116	-	43,874	-
Immunization Subvention	93.268	17-10329	517,667	68,433
COVID-19 ELC Detection and Mitigation of COVID-19 in Confinement Facilities	93.323	ELCCON35	33,314	-
COVID-19 ELC CARES Guidance	93.323	6NU50CK00053-9-01-08 DHHS-CDC	148,338	-
Subtotal 93.323			181,652	-
COVID-19 PHEP Crisis Response	93.354	COVID-19-28	9,445	-
COVID-19 Public Health Workforce Development Supplemental Funding	93.354	WFD-028	12,604	-
Subtotal 93.354			22,049	-
COVID-19 California Equitable Recovery Initiative (CERI)	93.391	CERI-21-23-27	54,020	-
COVID-19 ELC Enhancing Detection Funding	93.521	COVID-19ELC28	1,289,369	-
COVID-19 ELC Enhancing Detection Expansion Funding	93.521	COVID-19ELC86	2,150,271	166,735
Subtotal 93.521			3,439,640	166,735
Hospital Preparedness Program (HPP)	93.889	17-10176	142,361	-
HIV Care (ADAP)	93.917	20-10112	15,740	-
Maternal, Child, and Adolescent Health (MCAH)	93.994	202128	102,049	-
Passed through the State Department of Health Care Services:				
Projects for Assistance in Transition from Homelessness (PATH)	93.150	200339B	43,033	-
California Children's Services - Administrative (CHIP) Title XXI (OTLICP)	93.767	-	87,691	-
Medical Assistance Programs				
Child Health and Disability Prevention (CHDP)	93.778	-	128,344	-
Health Care Program for Children in Foster Care (HCPFC)	93.778	-	121,789	-
California Children's Services - Administrative (Title XIX) MC Children	93.778	-	311,054	-
County-Based Medi-Cal Administrative Activities	93.778	19-96015	948,502	-
Mental Health Medi-Cal Administrative Activities	93.778	-	272,597	-
Mental Health Medi-Cal Billing Administration	93.778	-	626,349	-
Alcohol and Drug Medi-Cal Billing Administration	93.778	-	230,559	-
Medi-Cal Utilization Review	93.778	-	811,055	-
Medi-Cal Eligibility Determination - Social Services	93.778	-	3,221,565	-
Adult Protective Service (APS/CSBG)	93.778	-	779,271	-
In-Home Supportive Services Administrative (IHSS)	93.778	-	1,843,999	-
Child Welfare Services (CWS)	93.778	-	1,928,829	-
Passed through the State Department of Veterans Affairs:				
Veteran's Medi-Cal Cost Avoidance	93.778	-	6,780	-
Subtotal 93.778 (Medicaid Cluster)			11,230,693	-
Passed through the Napa County Office of Education:				
Strategic Prevention Framework - Partnerships for Success	93.243	200340B	1,800	-
Passed through the State Department of Health Care Services:				
Substance Abuse and Mental Health Services Administration Programs:				
Block Grants for Community Mental Health Services	93.958	210061B	518,584	515,442
Block Grants for Prevention and Treatment of Substance Abuse (SAPT)	93.959	17-94145	606,510	467,999

See Accompanying Notes to Schedule of Expenditures of Federal Awards.

**County of Napa**  
**Schedule of Expenditures of Federal Awards (Continued)**  
**For the Year Ended June 30, 2022**

<b>Federal Grantor/Pass-Through Grantor/Program Title</b>	<b>Assistance Listing</b>	<b>Pass-Through Grant Award Number</b>	<b>Expenditures</b>	<b>Expenditures to Subrecipients</b>
<b>U.S. Department of Health and Human Services (Continued)</b>				
Passed through the State Department of Social Services:				
Kin-Gap Assistance	93.090	-	32,033	-
Promoting Safe and Stable Families	93.556	-	86,566	-
Temporary Assistance for Needy Families:				
CalWORKS - Administrative	93.558	-	3,978,507	219,563
Emergency Assistance TANF	93.558	-	430,618	29,850
Kin-Gap - Administrative	93.558	-	1,968	-
Subtotal 93.558			4,411,093	249,413
Community-Based Child Abuse Prevention Grants (CBCAP)	93.590	-	60,953	60,953
Adoption and Legal Guardianship Incentive Payments Program	93.603	-	2,904	-
Child Welfare Services - IV-B	93.645	-	37,124	37,124
Foster Care - Title IV-E:				
Foster Care - Title IV-E - Social Services	93.658	-	2,407,496	469,004
Foster Care - Title IV-E - Probation	93.658	-	105,226	-
Subtotal 93.658			2,512,722	469,004
Adoption Assistance	93.659	-	2,209,884	-
CWS Licensing Title XX	93.667	-	90,832	-
Foster Care Assistance Title XX	93.667	-	96,654	-
In-Home Supportive Services (Public Authority)	93.667	-	633,211	-
Subtotal 93.667			820,697	-
Chafee Foster Care Independence Program	93.674	-	40,419	23,272
COVID-19 Adult Protective Services	93.747	-	12,760	-
Passed through the State Department of Child Support Services:				
Child Support Enforcement	93.563	-	2,693,588	-
<b>Total U.S. Department of Health and Human Services</b>			<b>30,059,144</b>	<b>2,058,375</b>
<b>U.S. Department of Homeland Security</b>				
Passed through Governor's Office of Emergency Services, California:				
2014 South Napa Earthquake	97.036	FEMA-4193-DR-CA	471,252	-
2019 Storm 4434	97.036	FEMA-4434-DR-CA	41,401	-
2020 LNU Lightning Complex	97.036	FEMA-4558-DR-CA	547,718	-
2020 Glass Fire	97.036	FEMA-4569-DR-CA	798,687	-
Subtotal 97.036			1,859,058	-
Emergency Management Performance Grant	97.042	2020-0019	7,049	-
Emergency Management Performance Grant	97.042	2020-0006	27,431	-
Subtotal 97.042			34,480	-
Homeland Security Grant Program	97.067	2019-0035	78,778	-
Homeland Security Grant Program	97.067	2020-0095	104,427	-
Passed through the City and County of San Francisco:				
Urban Areas Security Initiative Program (UASI)	97.067	2020-0095	39,384	-
Subtotal 97.067			222,589	-
<b>Total U.S. Department of Homeland Security</b>			<b>2,116,127</b>	<b>-</b>
<b>Total Expenditures of Federal Awards Excluding Loans</b>			<b>\$ 58,369,841</b>	<b>\$ 2,673,026</b>

See Accompanying Notes to Schedule of Expenditures of Federal Awards.

**County of Napa**  
**Schedule of Expenditures of Federal Awards (Continued)**  
**For the Year Ended June 30, 2022**

<u>Federal Grantor/Pass-Through Grantor/Program Title</u>	<u>Assistance Listing</u>	<u>Pass-Through Grant Award Number</u>	<u>Expenditures</u>	<u>Expenditures to Subrecipients</u>
<u>Beginning Federal Loan Balances With a Continuing Compliance Requirement</u>				
<b>U.S. Department of Agriculture</b>				
Water and Waste Disposal Systems for Rural Communities (Water)	10.760	91-02	\$ 2,600,157	\$ -
Water and Waste Disposal Systems for Rural Communities (Sewer)	10.760	92-01	7,061,364	-
Subtotal 10.760			9,661,521	-
<b>Beginning Federal Loan Balances With a Continuing Compliance Requirement</b>			<b>9,661,521</b>	<b>-</b>
<b>Total Expenditures of Federal Awards Including Loans</b>			<b>\$ 68,031,362</b>	<b>\$ 2,673,026</b>
<u>Non-Cash Assistance</u>				
<b>U.S. Department of Agriculture</b>				
Passed through the State Department of Public Health:				
WIC Supplemental Nutrition Program - Vouchers Redeemed	10.557	19-10164	\$ 1,239,081	\$ -
WIC Farmers' Market Nutrition Program (FMNP) - Vouchers Redeemed	10.572	19-10164	2,835	-
<b>Total Value of Non-Cash Assistance</b>			<b>\$ 1,241,916</b>	<b>\$ -</b>
<b>Total Expenditures of Federal Awards Including Loans and Value of Non-Cash Assistance</b>			<b>\$ 69,273,278</b>	<b>\$ 2,673,026</b>

See Accompanying Notes to Schedule of Expenditures of Federal Awards.

**County of Napa**  
**Notes to Schedule of Expenditures of Federal Awards**  
**For the Year Ended June 30, 2022**

**NOTE 1 – GENERAL**

The accompanying Schedule of Expenditures of Federal Awards (SEFA) presents the activity of all federal award programs of the County of Napa (County). The County's reporting entity is defined in Note 1 to the County's basic financial statements. Expenditures of federal awards received directly from federal agencies, as well as expenditures of federal awards passed through other governmental agencies, are included in the SEFA.

**NOTE 2 – BASIS OF ACCOUNTING**

The accompanying SEFA is presented using the modified accrual basis of accounting, except for the following programs: Payments in Lieu of Taxes (15.226) and Federal Grazing Fee (15.227). For these programs, revenues received during the year are considered earned and are subsequently reported as expenditures. The information on this schedule is prepared in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Therefore, some amounts presented in this schedule may differ from amounts presented in, or used in the preparation of, the County's basic financial statements.

**NOTE 3 – RELATIONSHIP TO FINANCIAL STATEMENTS**

Federal award expenditures reported in the accompanying SEFA agree, or can be reconciled, in all material respects, to amounts reported in the County's basic financial statements.

**NOTE 4 – INDIRECT COSTS**

The County elected to use the 10-percent de minimis indirect cost rate allowed under the Uniform Guidance for the following programs:

<u>Program Title</u>	<u>CFDA</u>	<u>Expenditures</u>
Napa Victim/Witness Assistance	16.575	\$ 92,016
Napa Victim/Witness Assistance	16.575	156,551
Unserved/Underserved Victim Advocacy and Outreach	16.575	102,965
Unserved/Underserved Victim Advocacy and Outreach	16.575	45,220
Child Advocacy Center Program	16.575	157,257
Child Advocacy Center Program	16.575	1,511
Projects for Assistance in Transition from Homelessness (PATH)	93.150	43,033

**NOTE 5 – ASSISTANCE LISTING NUMBER**

The assistance listing numbers, included in the accompanying SEFA, were determined based on the program name, review of the grant, or contract information. Assistance listing numbers were previously known as Catalog of Federal Domestic Assistance (CFDA) numbers and are maintained on SAM.gov.

**NOTE 6 – PASS-THROUGH ENTITIES' IDENTIFYING NUMBER**

When federal awards were received from a pass-through entity, the SEFA indicates the identifying grant or contract number assigned by the pass-through entity, if available.

**NOTE 7 – NON-CASH ASSISTANCE**

The following assistance listing numbers also pertain to non-cash assistance, which has been included in the SEFA but not presented in the County's basic financial statements:

*10.557 WIC Supplemental Nutrition Program – Vouchers Redeemed* totaling \$1,239,081 are reported at the value of client purchases of authorized food products.

*10.572 WIC Farmers' Market Nutrition Program (FMNP) – Vouchers Redeemed* totaling \$2,835 are reported at the value of client purchases of authorized food products.

**NOTE 8 – LOANS OUTSTANDING***Water and Waste Disposal Systems for Rural Communities*

Beginning in fiscal year 2012-13, the Napa Berryessa Resort Improvement District (NBRID) received a loan from the United States Department of Agriculture to fund water and wastewater improvements. The funding was provided by the Rural Utilities Service under Assistance Listing 10.760. NBRID was awarded two Rural Development Loans repayable under the terms of the agreement. The following schedule presents the amount of loan balance outstanding for each project at June 30, 2022.

	<u>Water</u>	<u>Sewer</u>
Loan Balance, Outstanding July 1, 2021	\$ 2,600,157	\$ 7,061,364
Total Principal Repayments	<u>(51,000)</u>	<u>(138,000)</u>
Loan Balance, Outstanding June 30, 2022	<u><u>\$ 2,549,157</u></u>	<u><u>\$ 6,923,364</u></u>

**NOTE 9 – CALIFORNIA DEPARTMENT OF TRANSPORTATION**

The County participated in the Federal Apportionment Exchange Program and State Match Program. Federal Regional Surface Transportation (RSTP) funds were exchanged for nonfederal State Highway Account Funds as follows:

<u>Program</u>	<u>Contract</u>	<u>State Expenditures</u>
RSTP Exchange	X22-5921 (087)	\$ 237,648
State Match	X22-5921 (087)	<u>100,000</u>
Total		<u><u>\$ 337,648</u></u>

**NOTE 10 – WHOLE PERSON CARE**

Napa County is participating in a Whole Person Care (WPC) Pilot Program with the State of California Department of Health Care Services. Per the agreement, the overarching goal of the WPC program is, "...the coordination of health, behavioral health, and social services, as applicable, in a patient-centered manner with the goals of improved beneficiary health and wellbeing through more efficient and effective use of resources." The original agreement was entered into on November 21, 2016, and ended on December 31, 2021.

Although Napa County is receiving this money through the State of California, the original source of the funding is Federal. For the year ending June 30, 2022, Napa County expended \$1,118,646 of WPC funds. The Whole Person Care Pilot Program Team repeatedly issued guidance informing lead entities (including Napa County) that they had determined recipients to be contractors rather than subrecipients. For this reason, we are not reporting our WPC expenditures on the SEFA. However, we are treating our subcontractors as subrecipients and are monitoring them accordingly.

## **FINDINGS AND QUESTIONED COSTS**

**County of Napa**  
**Schedule of Findings and Questioned Costs**  
**For the Year Ended June 30, 2022**

**SECTION 1**

SUMMARY OF AUDITOR'S RESULTS

*Financial Statements*

1. Type of auditor's report issued: Unmodified
2. Internal control over financial reporting:
  - a. Material weakness identified? \_\_\_\_\_ Yes      X   No
  - b. Significant deficiencies identified  
not considered to be material weaknesses? \_\_\_\_\_ Yes      X   No
3. Noncompliance material to financial statements noted? \_\_\_\_\_ Yes      X   No

*Federal Awards*

1. Internal control over major federal programs:
  - a. Material weakness identified? \_\_\_\_\_ Yes      X   No
  - b. Significant deficiencies identified  
not considered to be material weaknesses? \_\_\_\_\_ Yes      X   No
2. Type of auditor's report issued on compliance  
for major programs: Unmodified
3. Any audit findings disclosed that are required to be  
reported in accordance with the Uniform Guidance? \_\_\_\_\_ Yes      X   No

4. Identification of major programs:

<u>Assistance Listing Numbers</u>	<u>Name of Federal Program or Cluster</u>
21.027	COVID-19 Coronavirus State and Local Fiscal Recovery Funds (ARPA)
93.521	COVID-19 ELC Enhancing Detection Funding
93.558	Temporary Assistance for Needy Families
93.563	Child Support Enforcement
93.658	Foster Care

5. Dollar threshold used to distinguish between Type A and  
Type B programs: \$2,078,189
6. Auditee qualified as low-risk auditee under the Uniform  
Guidance?   X   Yes    \_\_\_\_\_ No



**County of Napa**  
**Schedule of Findings and Questioned Costs (Continued)**  
**For the Year Ended June 30, 2022**

**SECTION 2**

FINANCIAL STATEMENT FINDINGS

None noted.

**SECTION 3**

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

None noted.

**County of Napa**  
**Summary Schedule of Prior Year Audit Findings**  
**For the Year Ended June 30, 2022**

None.

**County of Napa**  
**Supplementary Schedule of the California Office of Emergency Services**  
**and the Board of State and Community Corrections Grant Expenditures**  
**For the Year Ended June 30, 2022**

Program	Expenditures Claimed			Share of Expenditures Current Year		
	For the Period through June 30, 2021	For the Year Ended June 30, 2022	Cumulative as of June 30, 2022	Federal Share	State Share	County Share
Victim Witness Assistance Program; VW19010280						
Personnel services	\$ 232,684	\$ -	\$ 232,684	\$ -	\$ -	\$ -
Operating expenses	65,763	-	65,763	-	-	-
Totals	<u>\$ 298,447</u>	<u>\$ -</u>	<u>\$ 298,447</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Victim Witness Assistance Program; VW20110280						
Personnel services	\$ 186,996	\$ 72,854	\$ 259,850	\$ 72,854	\$ -	\$ -
Operating expenses	58,199	19,162	77,361	19,162	-	-
Totals	<u>\$ 245,195</u>	<u>\$ 92,016</u>	<u>\$ 337,211</u>	<u>\$ 92,016</u>	<u>\$ -</u>	<u>\$ -</u>
Victim Witness Assistance Program; VW21120280						
Personnel services	\$ -	\$ 241,811	\$ 241,811	\$ 120,948	\$ 120,863	\$ -
Operating expenses	-	58,052	58,052	35,603	22,449	-
Totals	<u>\$ -</u>	<u>\$ 299,863</u>	<u>\$ 299,863</u>	<u>\$ 156,551</u>	<u>\$ 143,312</u>	<u>\$ -</u>
Unserviced/Underserved Victim Advocacy and Outreach Program; UV19040280						
Personnel services	\$ 188,037	\$ -	\$ 188,037	\$ -	\$ -	\$ -
Operating expenses	46,461	-	46,461	-	-	-
Totals	<u>\$ 234,498</u>	<u>\$ -</u>	<u>\$ 234,498</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Unserviced/Underserved Victim Advocacy and Outreach Program; UV20050280						
Personnel services	\$ 78,013	\$ 82,537	\$ 160,550	\$ 81,377	\$ 1,160	\$ -
Operating expenses	20,281	21,588	41,869	21,588	-	-
Totals	<u>\$ 98,294</u>	<u>\$ 104,125</u>	<u>\$ 202,419</u>	<u>\$ 102,965</u>	<u>\$ 1,160</u>	<u>\$ -</u>
Unserviced/Underserved Victim Advocacy and Outreach Program; UV19020280						
Personnel services	\$ 116,992	\$ -	\$ 116,992	\$ -	\$ -	\$ -
Operating expenses	25,503	-	25,503	-	-	-
Totals	<u>\$ 142,495</u>	<u>\$ -</u>	<u>\$ 142,495</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Unserviced/Underserved Victim Advocacy and Outreach Program; UV20030280						
Personnel services	\$ 62,735	\$ 57,318	\$ 120,053	\$ 49,565	\$ 7,753	\$ -
Operating expenses	10,423	10,571	20,994	9,581	990	-
Totals	<u>\$ 73,158</u>	<u>\$ 67,889</u>	<u>\$ 141,047</u>	<u>\$ 59,146</u>	<u>\$ 8,743</u>	<u>\$ -</u>
Unserviced/Underserved Victim Advocacy and Outreach Program; UV21040280						
Personnel services	\$ -	\$ 46,044	\$ 46,044	\$ 15,287	\$ 30,757	\$ -
Operating expenses	-	7,558	7,558	7,558	-	-
Totals	<u>\$ -</u>	<u>\$ 53,602</u>	<u>\$ 53,602</u>	<u>\$ 22,845</u>	<u>\$ 30,757</u>	<u>\$ -</u>
Unserviced/Underserved Victim Advocacy and Outreach Program; UV21060280						
Personnel services	\$ -	\$ 67,545	\$ 67,545	\$ 27,990	\$ 39,555	\$ -
Operating expenses	-	17,230	17,230	17,230	-	-
Totals	<u>\$ -</u>	<u>\$ 84,775</u>	<u>\$ 84,775</u>	<u>\$ 45,220</u>	<u>\$ 39,555</u>	<u>\$ -</u>
County Victim Services Program; XC19020280						
Personnel services	\$ 14,309	\$ -	\$ 14,309	\$ -	\$ -	\$ -
Operating expenses	16,370	-	16,370	-	-	-
Totals	<u>\$ 30,679</u>	<u>\$ -</u>	<u>\$ 30,679</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
County Victim Services Program; XC20030280						
Personnel services	\$ 10,885	\$ 8,549	\$ 19,434	\$ 8,549	\$ -	\$ -
Operating expenses	48,296	44,873	93,169	44,873	-	-
Totals	<u>\$ 59,181</u>	<u>\$ 53,422</u>	<u>\$ 112,603</u>	<u>\$ 53,422</u>	<u>\$ -</u>	<u>\$ -</u>

**County of Napa**  
**Supplementary Schedule of the California Office of Emergency Services**  
**and the Board of State and Community Corrections Grant Expenditures (Continued)**  
**For the Year Ended June 30, 2022**

Program	Expenditures Claimed			Share of Expenditures Current Year		
	For the Period through June 30, 2021	For the Year Ended June 30, 2022	Cumulative as of June 30, 2022	Federal Share	State Share	County Share
County Victim Services Program; XC21040280						
Personnel services	\$ -	\$ 28,188	\$ 28,188	\$ -	\$ 28,188	\$ -
Operating expenses	-	20,144	20,144	19,285	859	-
Totals	<u>\$ -</u>	<u>\$ 48,332</u>	<u>\$ 48,332</u>	<u>\$ 19,285</u>	<u>\$ 29,047</u>	<u>\$ -</u>
County Victim Services Program; KC19030280						
Personnel services	\$ 4,192	\$ -	\$ 4,192	\$ -	\$ -	\$ -
Operating expenses	183,124	-	183,124	-	-	-
Totals	<u>\$ 187,316</u>	<u>\$ -</u>	<u>\$ 187,316</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
County Victim Services Program; KC20040280						
Personnel services	\$ 8,837	\$ 11,469	\$ 20,306	\$ 6,823	\$ 4,646	\$ -
Operating expenses	78,739	194,531	273,270	150,434	44,097	-
Totals	<u>\$ 87,576</u>	<u>\$ 206,000</u>	<u>\$ 293,576</u>	<u>\$ 157,257</u>	<u>\$ 48,743</u>	<u>\$ -</u>
County Victim Services Program; KC21050280						
Personnel services	\$ -	\$ 1,511	\$ 1,511	\$ 1,511	\$ -	\$ -
Operating expenses	-	48,106	48,106	-	48,106	-
Totals	<u>\$ -</u>	<u>\$ 49,617</u>	<u>\$ 49,617</u>	<u>\$ 1,511</u>	<u>\$ 48,106</u>	<u>\$ -</u>
Family Justice Center Program; FJ18010280						
Personnel services	\$ 12,267	\$ -	\$ 12,267	\$ -	\$ -	\$ -
Operating expenses	348,905	-	348,905	-	-	-
Totals	<u>\$ 361,172</u>	<u>\$ -</u>	<u>\$ 361,172</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0390

**TO:** Board of Supervisors  
**FROM:** Tracy Schulze, Auditor-Controller  
**REPORT BY:** Paul Phangureh, Internal Audit Manager  
**SUBJECT:** Internal Audit Charter (Update)

### **RECOMMENDATION**

Auditor-Controller requests the Board to accept, and instruct the Clerk of the Board to file, the updated Internal Audit Charter effective March 14, 2023.

### **EXECUTIVE SUMMARY**

The Internal Audit Charter was adopted by the Board of Supervisors in March of 2012. Since then, many Internal Audit Standards have been updated and now Napa County is out of compliance with the current regulations. This revision reflects all current standards as required, with no material change to the current organization or authority of the Internal Audit section of the Auditor-Controller's Office. Replacement of the outdated Policy (Charter) with the updated Charter is hereby requested.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No  
County Strategic Plan pillar addressed: Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On March 28, 2012, the Board of Supervisors approved an Internal Audit Policy (i.e., Internal Audit Charter) that defined the purpose, authority, and responsibility of the internal audit activity. The internal audit section of the Napa County Auditor-Controller's Office (Internal Audit) performs engagements in conformance with the International Standards for the Professional Practice of Internal Auditing (Standards) established by the Institute of Internal Auditors. The revised Internal Audit Charter is being presented for approval due to the following reasons:

- The Standards require the Chief Audit Executive (i.e., Internal Audit Manager) to periodically review the Internal Audit Charter and present it to the Auditor-Controller and the Board of Supervisors for approval

(Attribute Standards 1000).

- During Napa County's Peer Review (conducted every five years) completed by Placer County through June, 2018, we received an observation and recommendation to update our Internal Audit Charter. Placer County is scheduled to do our next peer review beginning in the first six months of this year. If not implemented, our next peer review will show that we continue to be out of date with the Standards and will potentially become a finding of non-compliance.
- The evolution of the internal audit profession has necessitated a revision of the Internal Audit Charter.

After extensive research, including consulting with many other counties in the State, Internal Audit recommends a revision to the Internal Audit Charter.

Due to the required reorganization of the sections of the Charter, a red-line version is not useful. Therefore, please see the attached proposed 2023 version, the current 2012 version, and a listing of the changes reflected in each section.

## INTERNAL AUDIT CHARTER

(March 2023)

### I. Introduction

This Internal Audit Charter establishes the purpose, authority, responsibility, reporting lines, and protocols of the internal audit section of the Napa County Auditor-Controller's Office (Internal Audit).

### II. Purpose and Mission

The *purpose* of Internal Audit is to provide senior management and the Board of Supervisors with independent, objective assurance and consulting services designed to add value and improve Napa County's operations.

The *mission* of Internal Audit is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight. Internal Audit helps senior management and the Board of Supervisors accomplish their objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and internal control processes.

### III. Standards for the Professional Practice of Internal Auditing

Internal Audit shall govern itself by adherence to the mandatory elements of *California Government Code Section 1236* which states that all county employees that conduct...audit activities shall conduct their work under the general and specified standards prescribed by The Institute of Internal Auditors or the Government Auditing Standards issued by the Comptroller General of the United States, as appropriate.

The standards generally provide as follows:

- Auditors should be independent of the activities they audit.
- Audits should be performed with proficiency and due professional care.
- Scope of the audit should encompass the examination and evaluation of the adequacy and effectiveness of the organization's system of internal control and the quality of performance in carrying out assigned responsibilities.
- Audit work should include planning the audit, examining and evaluating information, communicating results, and following up.
- Chief Auditor should properly manage the auditing department (Internal Audit).

The internal audit function adopts The Institute of Internal Auditors' International Professional Practices Framework which includes:

- *International Standards for the Professional Practice of Internal Auditing (Standards)*
- Core Principles for the Professional Practice of Internal Auditing
- Definition of Internal Auditing
- Code of Ethics

Other appropriate authoritative guidance, pronouncements, and regulations shall be considered when applicable.

The Chief Audit Executive (also referred to as Auditor-Accountant Manager or Internal Audit Manager) shall report periodically to the Auditor-Controller and the Board of Supervisors regarding Internal Audit's conformance to the *Standards* and the Code of Ethics.

#### **IV. Authority**

*California Government Code Section 1237* requires "all state and local agencies with an aggregate spending of fifty million dollars or more annually shall consider establishing an ongoing audit function."

*Napa County Resolution 2012-40* initially established the Internal Audit Policy under the Auditor-Controller's Office within the County Policy Manual. Part 1, Section 6B.

The Board of Supervisors *authorizes* Internal Audit to:

- Have unrestricted access to all functions, records, property, and personnel.
- Have full and free access to the Board of Supervisors, County Executive Officer, and Auditor-Controller.
- Allocate resources, set frequencies, select subjects, determine scopes of work, and apply the techniques required to accomplish audit objectives.

Additional authority for the internal audit function can be found from California Government Codes including:

- *California Government Code Section 26881* – For counties that have an office of controller, "the auditor-controller shall be the chief accounting officer of the County. Upon order of the board of supervisors, the...auditor-controller shall prescribe, and shall exercise a general supervision, including the ability to review departmental and countywide internal controls, over the accounting forms and the method of keeping the



accounts of all offices, departments and institutions under the control of the board of supervisors and of all districts whose funds are kept in the county treasury.”

- *California Government Code Section 26883* - the Board of Supervisors has the power to “enter into contracts for audits” and to “require that the county auditor-controller shall audit the accounts and records of any department, office, board or institution under its control and of any district whose funds are kept in the county treasury. The county auditor-controller’s report on any such audit shall be filed with the board of supervisors and, if the report discloses fraud or gross negligence, a copy thereof shall be filed with the district attorney.”
- *California Government Code Section 26884* - the Board of Supervisors may elect to “require the county auditor-controller perform the additional services authorized by this chapter.” In doing so, the Board of Supervisors “shall have the power and it shall be its duty to provide by proper appropriations for any additional personnel, equipment, supplies, or expenses made necessary.”
- *California Government Code Section 26885* - requires that the “provision of this chapter shall become operative only upon their adoption by a resolution passed by a unanimous vote of the board of supervisors at a regular meeting at which all members are present. Any resolution adopted pursuant to this section may be repealed by the board of supervisors at any time by a three-fifths vote.”

## **V. Organizational Independence**

Organization independence requires reporting to a level within the organization that allows Internal Audit to fulfill its responsibilities and to be free from interference in determining the scope of internal auditing, performing work, and communicating results.

To establish, maintain, and assure that Internal Audit has sufficient independence to fulfill its duties, the Chief Audit Executive shall report *administratively* (i.e., day-to-day operations) to the Auditor-Controller and *functionally* to the Board of Supervisors. Internal Audit achieves organizational independence via election of the Auditor-Controller by the residents of Napa County.

The *Board of Supervisor’s responsibilities* include the following:

- Approve the internal audit charter.
- Approve the risk-based annual audit plan.
- Approve the internal audit budget and resource plan through the County’s annual countywide budget process.
- Receive communication from the Chief Audit Executive on Internal Audit’s performance relative to its plan and other matters.

- Make appropriate inquiries of management and Chief Audit Executive to determine whether there are resource limitations, or the scope is inappropriate.
- Ensure satisfactory resolution of all significant audit observations.

Annually, the Chief Audit Executive shall confirm to the Board of Supervisors the organizational independence of Internal Audit.

## **VI. Independence and Objectivity**

The Chief Audit Executive shall ensure that Internal Audit remains free from all conditions that threaten the ability of internal auditors to carry out their responsibilities in an unbiased manner, including matters of audit selection, scope, procedures, frequency, timing, and report content. If the Chief Audit Executive determines that independence or objectivity may be impaired in fact or appearance, the details of impairment shall be disclosed to appropriate parties.

To achieve the degree of independence necessary to effectively carry out the responsibilities of the internal audit function, Internal Audit shall have direct and unrestricted access to senior management and the Board of Supervisors and to all functions, records, property, and personnel pertinent to carrying out any engagement subject to accountability for confidentiality and safeguarding of records and information.

Internal auditors shall maintain an unbiased mental attitude that allows them to perform engagements objectively and in such a manner that they believe in their work product, that no quality compromises are made, and that they do not subordinate their judgment on audit matters to others.

Internal Audit shall have no direct operational responsibility or authority over any of the activities audited. Accordingly, Internal Audit shall not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair their judgment, including:

- Perform any operational duties for the County or its affiliates.
- Initiate or approve accounting transactions external to the internal auditing department *except* when no other deputized manager is available to do so.
- Direct the activities of any County employee not employed by Internal Audit *except* to the extent such employees have been appropriately assigned to Internal Audit or to otherwise assist Internal Audit.

Where the Chief Audit Executive has or is expected to have roles and/or responsibilities that fall outside of internal auditing, safeguards shall be established to limit impairments to independence or objectivity.

Internal Audit shall:

- Disclose any impairment of independence or objectivity, in fact or appearance, to appropriate parties.
- Exhibit professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
- Make balanced assessments of all available and relevant facts and circumstances.
- Take necessary precautions to avoid being unduly influenced by their own interests or by others in forming judgments.

The Chief Audit Executive shall disclose to senior management, Auditor-Controller, and the Board of Supervisors any interference and related implications in determining the scope of internal auditing, performing work, and/or communicating results.

## **VII. Nature of Audit Work**

Internal Audit workload may include:

- *Assurance Engagements* - an objective assessment of evidence and an independent opinion or conclusion regarding an operation, function, process, system, or other subject matter; such audits may focus on the reliability of financial or operating information, on systems of internal control over record keeping, and/or the safeguarding of assets to ensure systems are adequate and effective; these audits may also include review of structures established to ensure compliance with policies, plans, procedures, laws, and regulations; engagements include:
  - *Financial Audits* - examine whether financial related items such as funds, accounts, or transactions are a fair and accurate representation of the transactions they claim to represent.
  - *Performance Audits* - examine the use of resources to evaluate whether those resources are being used in the most effective and efficient manner.
  - *Compliance Audits* - examine conformity and adherence of a particular area, process, or system to policies, plans, procedures, laws, regulations, contracts, or other requirements that govern the conduct of the area, process, or system subject to audit.

- *Internal Control Reviews* - assess internal controls established by management through the analysis of programs, policies, and procedures and their efficiency and effectiveness.
- *Follow up Audits* - a process in which Internal Audit performs validation testing procedures to determine the adequacy, effectiveness and timeliness of corrective actions taken by management on reported observations and recommendations.
- *Consulting Engagements* - advisory in nature and are generally performed at the specific request of a client; the nature and scope of the consulting engagement are subject to agreement with the client; internal Audit can perform custom designed reviews, offer considerations to improve the efficiency and effectiveness of operating areas, and assist management with special requests; results are restricted to internal recipients.
- *Investigations* - examine reported alleged instances of fraud, waste, and abuse.
- *Special Projects* - assignments are typically limited in scope.

### **VIII. Scope of Internal Audit Activities**

The *scope* of internal audit activities encompasses objective examinations of evidence for the purpose of providing independent assessments to senior management and the Board of Supervisors on the adequacy and effectiveness of governance, risk management, and internal control processes for Napa County.

Internal Audit assessments may include evaluating whether:

- Risks relating to the achievement of Napa County's strategic objectives are appropriately identified and managed.
- The actions of Napa County's officers, directors, employees, and contractors are in compliance with Napa County's policies, procedures, and applicable laws, regulations, and governance standards.
- The results of operations or programs are consistent with established goals and objectives.
- Operations or programs are being carried out effectively and efficiently.
- Established processes and systems enable compliance with the policies, procedures, laws, and regulations that could significantly impact Napa County.
- Information and the means used to identify, measure, analyze, classify, and report such information are reliable and have integrity.
- Resources and assets are acquired economically, used efficiently, and protected adequately.

Opportunities for improving the efficiency of governance, risk management, and internal control processes may be identified during engagements. These opportunities will be communicated to senior management, the Auditor-Controller, and the Board of Supervisors.

The Chief Audit Executive coordinates activities, where possible, and consider relying upon the work of other internal and external assurance and consulting service providers as needed.

## **IX. Responsibility**

The Chief Audit Executive has the responsibility to:

- Ensure Internal Audit collectively possesses or obtains the knowledge, skills, and other competencies needed to meet the requirements of the internal audit charter.
- Ensure trends and emerging issues that could impact Napa County are considered and communicated to senior management and the Board of Supervisors as appropriate.
- Establish and ensure adherence to policies and procedures designed to guide Internal Audit.
- Ensure adherence to Napa County's relevant policies and procedures unless such policies and procedures conflict with the internal audit charter. Any such conflicts shall be resolved or otherwise communicated to the Auditor-Controller and the Board of Supervisors.
- Ensure conformance of Internal Audit with the *Standards* with the following qualifications:
  - If Internal Audit is prohibited by law or regulation from conformance with certain parts of the *Standards*, the Chief Audit Executive shall ensure appropriate disclosures and conformance with all other parts of the *Standards*.
  - If the *Standards* are used in conjunction with requirements issued by other authoritative bodies, the Chief Audit Executive shall ensure that Internal Audit conforms with the *Standards*, even if Internal Audit also conforms with the more restrictive requirements of other authoritative bodies.

The Chief Audit Executive also has a responsibility to periodically report to the Auditor-Controller and the Board of Supervisors regarding:

- Internal Audit's purpose, authority, and responsibility (i.e., internal audit charter).
- Internal Audit's annual plan and performance relative to its annual plan.

- Internal Audit's conformance with The Institute of Internal Auditor's (IIA)'s Code of Ethics and the *Standards*, and corrective action plans to address any significant conformance issues.
- Results of audit engagements or other activities.
- Resource requirements.
- Significant risk exposures and control issues, including fraud risks, governance issues, and other matters requiring the attention of, or requested by, the Auditor-Controller or the Board of Supervisors.
- Any response to risk by management that may be unacceptable to Napa County.

## **X. Internal Audit Plan**

The Chief Audit Executive shall submit to the Board of Supervisors for review and approval, a risk-based internal audit plan of proposed engagements. The internal audit plan shall be based on a documented risk assessment.

To develop a documented risk assessment, the Chief Audit Executive shall consider factors such as the department's budget, employee turnover, time since last audit, prior audit findings, risk exposure, laws and regulations, policies and procedures, control environment, and timing and staffing resources available. The Chief Audit Executive shall also consider input from senior management and the Board of Supervisors.

The Chief Audit Executive shall:

- Communicate to the Auditor-Controller and the Board of Supervisors the impact of any resource limitations on the internal audit plan.
- Review and adjust the internal audit plan, as necessary, in response to changes in Napa County's business, risks, operations, programs, systems, and controls.
- Communicate to the Auditor-Controller and the Board of Supervisors any significant interim changes to the internal audit plan.
- Ensure engagements listed in the internal audit plan is executed, including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, the documentation of work programs and testing results, and the written communication of engagement results, conclusions, and recommendations to appropriate parties as applicable.

## **XI. Reporting and Monitoring**

A written report shall be issued by the Auditor-Controller on behalf of Internal Audit following the conclusion of each audit engagement listed on the annual plan and shall be communicated as appropriate. At minimum, the engagement's objectives, scope, and results shall be communicated to the Board of Supervisors.

During audit engagements, observations (i.e., findings/non-compliance) may be identified and recommendations for improving the efficiency of governance, risk management, and control processes may be provided. The Chief Audit Executive shall establish a follow-up process that is designed to ensure that departments, offices, or agencies are taking appropriate and timely corrective action to address Internal Audit's observations and to implement their recommendations. Senior management shall provide written responses to observations and recommendations including an explanation of the corrective action taken or not to be taken.

For corrective action to be taken, management's written response shall include anticipated completion of corrective action and identify process owner responsible for the corrective action. For any corrective action that is not implemented, an explanation shall be provided along with management's acceptance of the risk of not taking action. Internal Audit shall review management's reported corrective action and supporting documentation and report the results to the Board of Supervisors.

All significant observations shall remain open until cleared. The Board of Supervisors are primarily responsible for ensuring satisfactory resolution of all significant audit observations and shall work with departments, offices, or agencies to ensure satisfactory resolution of all significant audit observations.

## **XII. Quality Assurance and Improvement Program**

Internal Audit shall maintain a Quality Assurance and Improvement Program (QAIP) that covers all aspects of Internal Audit's activity. The Quality Assurance and Improvement Program shall include an evaluation of Internal Audit's conformance with the *International Standards for the Professional Practice of Internal Auditing (Standards)* and the Code of Ethics, identify successful internal audit practices and opportunities for improvement, and assess the efficiency and effectiveness of the internal audit function.

The Chief Audit Executive shall communicate to the Board of Supervisors on Internal Audit's Quality Assurance and Improvement Program, including results of internal assessments (both ongoing and periodic) and external assessments (to be performed by a qualified independent auditor at least once every five years).

Adopted by the Board of Supervisors on April 17, 2012; Resolution 2012-40

## **INTERNAL AUDIT POLICY**

### **I. MISSION AND SCOPE OF WORK**

The mission of the internal audit section of the Napa County Auditor-Controller's Office is to provide objective assurance and consulting services designed to add value and improve the County's operations. It assists the County in accomplishing its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and government processes.

The scope of work of the internal audit section is to determine whether the County's network of risk management, control, and government processes, as designed and represented by management, is adequate and functioning in a manner to ensure:

- Risks are appropriately identified and managed.
- Interaction with the various government groups occurs as needed.
- Significant financial, managerial, and operating information is accurate, reliable, and timely.
- Employee's actions are in compliance with policies, standards, procedures, and applicable laws and regulations.
- Resources are acquired economically, used efficiently, and adequately protected.
- Programs, plans, and objectives are achieved.
- Quality and continuous improvement are fostered in the County's control process.
- Significant legislative or regulatory issues impacting the County are recognized and addressed properly.
- Background and experience are to be used in other capacities, as needed, providing that no conflict arises with other areas noted above.

Opportunities for improving management control, profitability, and the County's image may be identified during audits. They will be communicated to the appropriate level of management.

### **II. ACCOUNTABILITY**

The Chief Audit Executive (CAE), known as the Internal Audit Manager, in the discharge of his/her duties, shall be accountable to the Auditor-Controller, County Executive Officer, and the Board of Supervisors to:

- Provide an assessment on the adequacy and effectiveness of the County's processes for controlling its activities and managing its risks in the areas set forth under the mission and scope of work.



- Report significant issues related to the processes for controlling the activities of the County and its affiliates, including potential improvements to those processes, and provide information concerning such issues through resolution.
- Provide information periodically to the Auditor-Controller on the status and results of the annual audit plan and the sufficiency of department resources.
- Coordinate with and provide oversight of other control and monitoring functions.

### **III. INDEPENDENCE**

To provide for the independence of the internal audit section, its personnel will report to the CAE, who reports functionally and administratively to the Auditor-Controller and periodically to the Board of Supervisors in a manner outlined in the above section on Accountability. It will include as part of its reports to the Auditor-Controller a regular report on internal audit personnel.

### **IV. RESPONSIBILITY**

The CAE and staff of the internal audit section have responsibility to:

- Develop a flexible annual audit plan using appropriate risk-based methodology, including any risks or control concerns identified by management, and submit that plan to the Auditor-Controller for review and approval.
- Implement the annual audit plan, as approved, including, and as appropriate, any special tasks or projects requested by Department Heads, the County Executive Officer, and the Board of Supervisors.
- Maintain a professional audit staff with sufficient knowledge, skills, experience, and professional certifications to meet the requirements of this charter.
- Establish a quality assurance program by which the CAE assures the operations of internal auditing activities.
- Perform consulting services, beyond internal auditing assurance services, to assist management in meeting its objectives. Examples may include facilitation, process design, training, and advisory services.
- Evaluate and assess significant merging/consolidating functions and new or changing services, processes, operations, and control processes coincident with their development, implementation, and/or expansion.
- Issue periodic reports to the Auditor-Controller and the County Executive Officer summarizing results of audit activities.
- Keep the Auditor-Controller and County Executive Officer informed of emerging trends and successful practices in internal auditing.
- Provide a list of significant measurement goals and results to the Auditor-Controller.

- Seek management's response to findings discovered during audit, review, and other engagements pertaining to their department's activities.
- Assist in the investigation of significant suspected fraudulent activities within the County and notify the appropriate level of authority above – the Auditor-Controller, legal counsel, and/or the County Executive Officer – of the suspected fraudulent activities and the results of the investigation.
- Consider the scope of work of the external auditors and regulators, as appropriate, for the purpose of providing optimal audit coverage to the County at a reasonable overall cost.

## **V. AUTHORITY**

The CAE and staff of the internal audit section are authorized to:

- Have unrestricted access to all functions, records, property, and personnel.
- Have full and free access to the Board of Supervisors, County Executive Officer, and Auditor-Controller.
- Allocate resources, set frequencies, select subjects, determine scopes of work, and apply the techniques required to accomplish audit objectives.

The CAE and staff of the internal auditing section are not authorized to:

- Perform any operational duties for the County or its affiliates.
- Initiate or approve accounting transactions external to the internal auditing department except when no other deputized manager is available to do so.
- Direct the activities of any County employee not employed by the internal audit section, except to the extent such employees have been appropriately assigned to auditing teams or to otherwise assist the internal auditors.

## **VI. STANDARDS OF AUDIT PRACTICE**

The internal audit activity will meet or exceed the *Standards for the Professional Practice of Internal Auditing* of The Institute of Internal Auditors.

---

Internal Audit Manager (Chief Audit Executive)

---

Auditor-Controller

---

County Executive Officer  
March 28, 2012

**Internal Audit Charter  
2012 v 2023 Comparison**

<b>2012 CHARTER (Current)</b>	<b>2023 CHARTER (Proposed)</b>
<b>I. Mission and Scope of Work (2012)</b> <ul style="list-style-type: none"><li>• <i>Mission moved to Section II (2023)</i></li><li>• <i>Scope moved to Section VIII (2023)</i></li></ul>	<b>I. Introduction (2023)</b> <ul style="list-style-type: none"><li>• <i>New section to introduce Charter</i></li></ul>
<b>II. Accountability (2012)</b> <ul style="list-style-type: none"><li>• <i>Moved to Section V (2023)</i></li></ul>	<b>II. Purpose and Mission (2023)</b> <ul style="list-style-type: none"><li>• <i>Purpose and Mission are redefined</i></li><li>• <i>Meets Standard 1000</i></li></ul>
<b>III. Independence (2012)</b> <ul style="list-style-type: none"><li>• <i>Moved to Section V and Section VI (2023)</i></li></ul>	<b>III. Standards for the Professional Practice of Internal Auditing (2023)</b> <ul style="list-style-type: none"><li>• <i>Includes Section VI - Standards of Audit Practice (2012)</i></li><li>• <i>Section has been expanded to include CA Government Code</i></li><li>• <i>Meets Standards 1010, 1320</i></li></ul>
<b>IV. Responsibility (2012)</b> <ul style="list-style-type: none"><li>• <i>Moved to Section IX (2023)</i></li></ul>	<b>IV. Authority (2023)</b> <ul style="list-style-type: none"><li>• <i>Includes Section V - Authority (2012)</i></li><li>• <i>Expanded to include CA Government Codes and Prior County</i></li><li>• <i>Meets Standards 1000</i></li></ul>
<b>V. Authority (2012)</b> <ul style="list-style-type: none"><li>• <i>Moved to Section IV (2023)</i></li></ul>	<b>V. Organizational Independence (2023)</b> <ul style="list-style-type: none"><li>• <i>Includes Section II - Accountability (2012)</i></li><li>• <i>Section has been expanded to include BOS's responsibilities</i></li><li>• <i>Meets Standards 1110</i></li></ul>
<b>VI. Standards of Audit Practice (2012)</b> <ul style="list-style-type: none"><li>• <i>Moved to Section III (2023)</i></li></ul>	<b>VI. Independence and Objectivity (2023)</b> <ul style="list-style-type: none"><li>• <i>Includes key elements of Section IV - Authority (2012)</i></li><li>• <i>Section has been expanded with more details</i></li><li>• <i>Meets Standards 1112, 1120, 1130</i></li></ul>
	<b>VII. Nature of Audit Work (2023)</b> <ul style="list-style-type: none"><li>• <i>New Section that describes work Internal Audit performs</i></li><li>• <i>Meets Standard 2100</i></li></ul>
	<b>VIII. Scope of Internal Audit Activities (2023)</b> <ul style="list-style-type: none"><li>• <i>Includes key elements of Section I - Mission and Scope (2012)</i></li><li>• <i>Section has been expanded with more details</i></li><li>• <i>Meets Standards 2050, 2100, 2110, 2120, 2130</i></li></ul>
	<b>IX. Responsibility (2023)</b> <ul style="list-style-type: none"><li>• <i>Includes key elements of Section IV - Responsibility (2012)</i></li><li>• <i>Section has been expanded with more details</i></li><li>• <i>Meets Standards 1210, 2040</i></li></ul>
	<b>X. Internal Audit Plan (2023)</b> <ul style="list-style-type: none"><li>• <i>New section that describes development of internal audit plan</i></li><li>• <i>Meets Standards 2010, 2020</i></li></ul>
	<b>XI. Reporting and Monitoring (2023)</b> <ul style="list-style-type: none"><li>• <i>New section that describes follow up procedures</i></li><li>• <i>Meets Standards 2060, 2400, 2410, 2500</i></li></ul>
	<b>XII. Quality Assurance and Improvement Program (2023)</b> <ul style="list-style-type: none"><li>• <i>New section that describes quality control review</i></li><li>• <i>Meets Standards 1300, 1311, 1312, 1320</i></li></ul>



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0365

---

**TO:** Board of Supervisors

**FROM:** David Morrison - Interim County Executive Officer

**REPORT BY:** Neha Hoskins - Clerk of the Board

**SUBJECT:** Appointments to the Napa Valley Transportation Authority Board of Directors

---

### **RECOMMENDATION**

Interim County Executive Officer and Clerk of the Board request the appointment of two Directors and two Alternates to the Napa Valley Transportation Authority (NVTA).

### **EXECUTIVE SUMMARY**

Appointments to the NVTA Board of Directors are usually made on an annual basis at the Board of Supervisors first meeting of the year. These appointments were delayed pending Supervisor Alfredo Pedroza's possible reappointment to the Metropolitan Transportation Committee (MTC), which occurred at the Board of Supervisor's meeting of February 7, 2023 concurrently with the submission of three nominees from the Napa County City Selection Committee. Supervisor Pedroza's reappointment to MTC automatically appoints him as one of the two NVTA Directors. Today's action will confirm the appointment of Supervisor Pedroza as one of the Directors along with the appointments of a second Director and two Alternate positions.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed: Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

NVTA serves as the Congestion Management Agency for Napa County, responsible for programming state and federal funds for local projects. A Joint Powers Authority, NVTA handles Napa County's short- and long-term regional transportation planning, working closely with its local, regional, state, and federal partners to improve Napa County's streets, highways, and bicycle and pedestrian facilities. Two elected members from each of Napa County's five incorporated jurisdictions and the County of Napa are appointed to serve on NVTA's Board of Directors.

The Board of Supervisors appoints two Directors and two Alternates to NVTA Board. If the county's MTC Representative is a member of the Board of Supervisors, that person automatically serves as one of the two Directors.

Supervisor Alfredo Pedroza's current term on the MTC was set to expire on February 9, 2023. The Napa County City Selection Committee held a special meeting on January 30, 2023, to discuss submitting the names of three nominees to the Board of Supervisors per Government Code sections 66503 and 66504. The names of Supervisor Alfredo Pedroza, City of Napa Councilmember Liz Alessio, and Town of Yountville Mayor Marjorie Moher were submitted for consideration. The Board reappointed Supervisor Pedroza as the MTC Representative. on February 7, 2023.

Current incumbents to the NVTA are Supervisors Belia Ramos and Alfredo Pedroza as the MTC Representative. Supervisor Ryan Gregory currently serves as an incumbent Alternate, and the other Alternate position was vacated upon the retirement of Supervisor Diane Dillon.

Staff requests the appointments of two Directors, one being Supervisor Pedroza, and two Alternates to the NVTA Board of Directors. Terms on the NVTA are reviewed annually.



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0389

---

**TO:** Board of Supervisors  
**FROM:** David Morrison, Interim County Executive Officer  
**REPORT BY:** Daniel Sanchez, Senior Management Analyst  
**SUBJECT:** Five-year budget forecast and other fiscal reports

---

### **RECOMMENDATION**

Interim County Executive Officer requests that the Board:

1. Receive a presentation of the five-year budget forecast, Section 115 Trust Fund, and American Rescue Plan Act;
2. Approve mid-year Budget Adjustments per the attached reports; and
3. Authorize the creation of a new non-operating special revenue fund for CARE Court in Fund 2460, Division 24622, Subdivision 20000252 (4/5 vote required).

(CONTINUED FROM FEBRUARY 28, 2023)

### **EXECUTIVE SUMMARY**

As part of the County's annual budget process, the Board reviews the five-year forecast. This presentation is intended to highlight any financial trends in revenues and expenses that help inform the upcoming budget process.

The County opened a Section 115 Trust to fund its Other Post-Employment Benefits - Health Insurance unfunded liability. Staff will present the annual report per the Pension Trust Fund policy.

The County received \$26.8 million in ARPA federal grant monies to respond to the pandemic and to provide economic recovery. The Board allocated the monies in 2021 and 2022 and program expenditures are in progress. Funds must be obligated by December 2024 and spent by December 2026. Staff will provide periodic

updates regarding status of funds.

Departments have reviewed their projected activity through fiscal year end and request supplemental appropriations through mid-year budget adjustments.

The state provided initial grants to counties for CARE Court implementation costs. The County is creating a new non-operating special revenue fund for CARE Court.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? Yes  
County Strategic Plan pillar addressed: Effective and Open Government

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: No.

### **BACKGROUND AND DISCUSSION**

The annual five-year forecast provides the Board with a representation of the General Fund revenue outlook, based on continuing the existing level of service and known variables. The projections provided in the five-year forecast are high-level assumptions and are intended to reflect general financial trends to inform policy. This is not intended to establish preliminary budget figures nor to present an accounting of fund balances.

-----  
Section 115 OPEB Trust:

The County established a Public Agency Retirement Services (PARS) Trust to fund its retiree healthcare liability in fiscal year 2008 and has made periodic contributions.

Unfunded Actuarial Accrued Liability (UAAL) at 6/30/21 \$3,812,000

(page 39 of attached 2021 OPEB Actuarial Report, excluding Courts)

Account Balance at 7/1/2021 \$109,040,496

Contributions \$ 4,292,657

---

Expenses/Distributions	\$ 286,339
Earnings/(Losses)	\$ (14,890,549)
Account Balance 6/30/2022	\$ 98,156,265

Account Balance at 12/31/2022 \$100,722,058

-----

American Rescue Plan Act allocated funds by category:

Public Health	\$ 5.2 million
Negative Economic Impacts	\$ 6.1 million
Public Sector Capacity	\$11.2 million
Infrastructure	\$ 4.2 million
Administration	\$ 0.1 million

Total	\$26.8 million
-------	----------------

Public Health category includes EOC operations, vaccinations, isolation and quarantine shelter, and other eligible expenses. Negative Economic Impacts category includes affordable housing investment, community grants, and childcare infrastructure loan program. Public Sector Capacity category accounts for the cost of COVID supplemental sick leave incurred by the organization and the standard allowance. County then provided like investment into MSA grant program, fire prevention services, and road improvements. Infrastructure category includes water, sewer, and broadband projects. Administration is staff time charged to the grant.

-----

The attached mid-year budget adjustment report provides a description for each department's request and the source of funds. The requested uses of General Fund Appropriation for Contingency total \$4.7 million and of General Fund Available Fund Balance total \$4.2 million. Many of the requests are for Salaries and Benefits for the wages increases approved earlier this fiscal year, additional positions, and overtime, and outside counsel expenses for contract public defender and county counsel.

Information Technology Services internal service fund is requesting \$1.8 million of contingency funds and almost \$3.4 million in additional general fund available fund balance to address a structural gap that has accumulated and been compounded with significant inflationary increases in labor, equipment, and service costs. The requested monies are projected for the fund to conclude the fiscal year with the state controller's



recommended sixty days of working capital. Balances will be reviewed once the fiscal year closes and additional requests will be presented if needed.

-----

The State is piloting a CARE Court program in six counties and has provided initial grants to the remaining counties to begin planning for CARE Court operations. HHSA requests the creation of a non-operating special revenue fund to account for the grant monies received.



**BARTTEL**  
ASSOCIATES, LLC

**COUNTY OF NAPA  
RETIREE HEALTHCARE PLAN**

**June 30, 2021 OPEB Actuarial Valuation  
Plan Funding for 2023/24 and 2024/25**

**Doug Pryor, Vice President**

Bianca Lin, Assistant Vice President & Actuary

Daniel Park, Actuarial Analyst

Joseph Herm, Actuarial Analyst

**Bartel Associates, LLC**

November 2, 2022

**Contents**

<u>Topic</u>	<u>Page</u>
Benefit Summary	1
Implied Subsidy	9
Participant Statistics	11
Actuarial Assumptions Highlights	17
Actuarial Methods	23
Assets	25
Results	29
Actuarial Certification	42
Exhibits	
Premiums	E - 1
Data Summary	E - 5
Actuarial Assumptions	E - 34
Definitions	E - 49



## BENEFIT SUMMARY

### ■ Retiree Healthcare Benefits

#### ■ Overview:

Group Covered <sup>1</sup>		Benefit <sup>2</sup>
All employees		Sick Leave Conversion (SLC)
Management/Public Service		Long-Term Service Benefit (LTSB)
Management <sup>3</sup>	Participation < 2013	Lifetime Benefit
	Participation ≥ 2013	Officer's Service Conversion Benefit

#### ■ Since County participates in PEMHCA, benefit not less than PEMHCA minimum using the 5% 'unequal method':

- County joined PEMHCA in 2002
- 2021 benefit \$141.55 (95% of \$149)
- 2022 benefit \$151.00 (100% of \$151)

<sup>1</sup> Management includes Confidential, Classified, Non-Classified and Court employees in the same classification.

Public Service includes Court employees in the same classification hired prior to 1/1/2001

<sup>2</sup> Retirees get to choose from one of the benefits if eligible

<sup>3</sup> Hired and appointed, or elected, prior to or after 1/1/2013.



November 2, 2022

1



## BENEFIT SUMMARY

### Sick Leave Conversion

#### ■ Eligibility

- Service or Disability retire directly from County under CalPERS
- Minimum 120 hours unused sick leave
- One time choice at retirement
- Cannot be banked to use at a future date

#### ■ Benefit

- Sick leave hours pay for medical, Medicare Part B and dental premiums
- Monthly limit of Kaiser Bay Area non-Medicare premium
- PEMHCA minimum only if waive and re-elect

#### ■ Sick Leave

	Law Enforcement	Management	Public Service
Accrual per year	■ 96 hours	■ 98.8 hours	■ 98.8 hours
Conversion Rate	■ 8 hrs = 1 month EE coverage		■ Max – 1,248 hours
	■ 16 hrs = 1 month EE+1 coverage		
	■ Max – 1,800 hours		
Surviving Spouse Benefit	■ Based on retirement plan election	■ None	



November 2, 2022

2



## BENEFIT SUMMARY

### Long-Term Service Benefit

■ Eligibility	<ul style="list-style-type: none"> <li>■ Management/Public Service employees</li> <li>■ Retire Age 50 &amp; 20 years of County service</li> </ul>
■ Benefit	<ul style="list-style-type: none"> <li>■ County pays lesser of retiree single premium and cap until age 65</li> <li>■ Cap is the most common active employee non-Medicare premium (Currently Kaiser Bay Area)</li> <li>■ Sick leave conversion can be used for dental or sick leave hours applied to CalPERS service credit</li> </ul>
■ Other	<ul style="list-style-type: none"> <li>■ No benefit (other than PEMHCA minimum) for:                             <ul style="list-style-type: none"> <li>• surviving spouses</li> <li>• waived retirees who re-elect coverage</li> </ul> </li> </ul>



## BENEFIT SUMMARY

### Lifetime Benefit

■ Eligibility	<ul style="list-style-type: none"> <li>■ Non-Classified Department Head &amp; Elected Officials<sup>4</sup></li> <li>■ Hired &lt; 1/1/2013</li> <li>■ 8 yrs of County service, with 5+ yrs in Non-Classified (deferred termination benefit)</li> </ul>	
■ Benefit	DOP <sup>5</sup>	Benefit
	< 7/10/07	County pays medical/dental/vision/Medicare Part B reimbursement family coverage for life
	7/10/07 - 12/31/12	County pays medical/ dental/vision/ Medicare Part B EE+1 for life. Medical capped at most enrolled active plan (Kaiser non-Medicare)
	≥ 1/1/13	Not eligible. Eligible Officer Serv Conv Ben
■ Other	<ul style="list-style-type: none"> <li>■ Benefit continues to surviving spouse</li> <li>■ No sick leave conversion benefit (sick leave hours would be used for additional CalPERS service credit)</li> </ul>	

<sup>4</sup> Only Elected Officials elected prior to 1/1/2013.

<sup>5</sup> Date of election or appointment



## BENEFIT SUMMARY

### Officer's Service Conversion Benefit

■ Eligibility	<ul style="list-style-type: none"> <li>■ All officers</li> <li>■ Elected or appointed after 1/1/2013<sup>6</sup></li> <li>■ 15 months of County service</li> </ul>
■ Benefit	<ul style="list-style-type: none"> <li>■ 1 month EE premiums paid for each month County service</li> <li>■ 1 month EE+1 premiums paid for each 2 months County service</li> <li>■ Max 225 months</li> <li>■ Cap is the most common active employee non-Medicare premium (Currently Kaiser Bay Area)</li> </ul>

<sup>6</sup> Choose between Officers' Service Conversion Benefits, Long Term Service Benefits, or Sick Leave Conversion benefits.



November 2, 2022



## BENEFIT SUMMARY

### Court Benefits

■ Eligibility	<ul style="list-style-type: none"> <li>■ Retired &lt; 1/1/01 – County responsible for retiree healthcare benefits</li> <li>■ Hired &lt; 1/1/01 – County share based on service as of 1/1/01</li> <li>■ Hired &gt; 1/1/01 – Not County responsibility</li> </ul>
■ Benefit	<ul style="list-style-type: none"> <li>■ JRS pays full healthcare premium and Medicare Part B for retired judges. County reimburses the rest if any.</li> </ul>



November 2, 2022



## BENEFIT SUMMARY

■ Pay-As-You-Go Costs (000's)	<u>Fiscal Year</u>	<u>Cash</u>	<u>Implied Subsidy</u>	<u>Total</u>
	2020/21	\$ 3,537	\$ 1,203	\$ 4,740
	2019/20	3,255	1,025	4,280
	2018/19	2,978	1,115	4,093
	2017/18	2,757	939	3,696
	2016/17	2,148	851	2,999
	2015/16	2,257	786	3,043
	2014/15	2,453	-	2,453
	2013/14	2,323	-	2,323



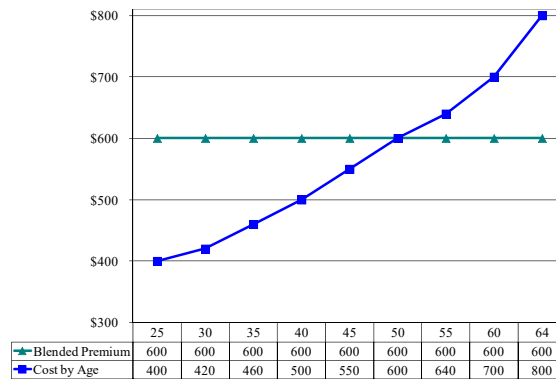
## BENEFIT SUMMARY

**This page intentionally blank**

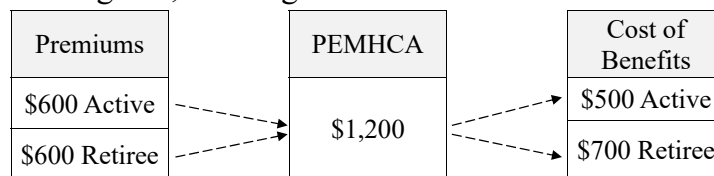


## IMPLIED SUBSIDY

- For PEMHCA, employer cost for allowing retirees to participate at active rates.
  - General trend:



- Sample active age 40, retire age 60:



## IMPLIED SUBSIDY

- GASBS 75 defers to actuarial standards of practice.
- Previous Actuarial Standards of Practice No. 6<sup>7</sup> (ASOP 6) allows community rated plans to value liability using premiums, resulting in no implied subsidy.
- In May 2014, Actuarial Standards Board released revised ASOP 6:
  - Requires implied subsidy valued for community rated plans such as PEMHCA.
  - Timing: effective with all valuations on or after March 31, 2015 with earlier implementation encouraged.
- County implemented early
- June 30, 2013 valuation and later valuations include the implied subsidy.

<sup>7</sup> Measuring Retiree Group Benefits Obligations and Determining Retiree Group Benefits Plan Costs or Contributions.



## PARTICIPANT STATISTICS

### Actives<sup>8</sup>

	6/30/11 <sup>9</sup>	6/30/13	6/30/15	6/30/17	6/30/19	6/30/21
■ Count	1,307	1,314	1,370	1,389	1,413	1,366
■ Average Age	46.2	45.9	45.9	45.7	45.2	44.6
■ Average County Service	10.8	10.9	11.0	10.5	10.3	10.2
■ Unused Sick Leave Hours						
• Average	339	353	349	343	331	352
• Total (000s)	443	464	478	476	467	481
■ Salary						
• Average	\$70,900	\$71,500	\$78,000	\$81,300	\$87,000	\$91,300
• Total (000s)	89,105	94,003	106,827	112,931	123,349	124,737

<sup>8</sup> Excludes Court employees hired after 1/1/01.

<sup>9</sup> Based on 6/30/10 census data, including corrected counts for Management Classified and Management Non-Classified.



November 2, 2022

11



## PARTICIPANT STATISTICS

### Inactives

	6/30/11 <sup>10</sup>	6/30/13	6/30/15	6/30/17 <sup>11</sup>	6/30/19	6/30/21
■ Service Retirees <sup>12</sup>						
• Total Count	386	470	481	834	910	1,009
• Avg. Age	68.3	68.1	68.6	70.9	71.2	71.1
• Avg. Ret. Age <sup>13</sup>	59.0	59.6	59.6	59.4	59.6	59.7
■ Disabled Retirees						
• Total Count	6	19	17	53	57	56
• Avg. Age	62.3	62.8	66.5	65.3	66.2	65.4
• Avg. Ret. Age	56.4	51.8	52.0	46.3	47.1	46.4
■ Vested Term						
• Total Count	3	1	1	2	2	2
• Avg. Age	57.5	57.9	52.9	58.4	56.8	58.8

<sup>10</sup> Based on 6/30/10 census data.

<sup>11</sup> CalPERS PEMHCA data used for the 6/30/17 valuation. It includes 323 retirees/survivors not in the 6/30/15 valuation: 310 waived, 10 receiving PEMHCA Minimum only, 2 lifetime benefitting survivors, and 1 retiree with sick leave conversion.

<sup>12</sup> Includes surviving spouses.

<sup>13</sup> Excludes surviving spouses.



November 2, 2022

12





## PARTICIPANT STATISTICS

### Actives - Courts<sup>14</sup>

	6/30/11 <sup>15</sup>	6/30/13	6/30/15	6/30/17	6/30/19	6/30/21
■ Count	51	42	34	33	25	18
■ Average Age	49.7	51.0	51.7	53.3	54.4	56.4
■ Average County Service	17.8	19.4	20.2	20.5	22.7	24.2
■ Unused Sick Leave Hours:						
• Average	336	385	495	580	642	658
• Total (000s)	17	16	17	19	16	12
■ Salary						
• Average	n/a	n/a	n/a	n/a	n/a	n/a
• Total (000s)	n/a	n/a	n/a	n/a	n/a	n/a

<sup>14</sup> Excludes Court employees hired after 1/1/01.

<sup>15</sup> Based on 6/30/10 census data.



November 2, 2022

13



## PARTICIPANT STATISTICS

### Inactives - Courts

	6/30/11	6/30/13	6/30/15	6/30/17	6/30/19	6/30/21
■ Count:						
• Count < 65	8	11	13	13	14	15
• Count ≥ 65	<u>5</u>	<u>10</u>	<u>13</u>	<u>14</u>	<u>19</u>	<u>19</u>
• Total Count	13	21	26	27	33	34
■ Avg. Age	62.8	63.3	64.9	66.6	67.3	65.9
■ Avg. Ret. Age	58.2	57.4	57.7	57.7	58.5	57.9



November 2, 2022

14



640

## PARTICIPANT STATISTICS

### Participant Reconciliation - County

	Actives	Retirees				
		Service	Disabled	Survivors	VT	Total
■ <b>June 30, 2019</b>	1,413	822	57	88	2	969
• Terminations	(117)	-	-	-	-	-
• New Retirees	(144)	140	4	-	-	144
• Retiree Deaths w/o Survivor <sup>16</sup>	-	(39)	(3)	(15)	-	(57)
• Retiree Deaths w Survivor	-	(6)	(3)	9	-	-
• New Hires	214	-	-	-	-	-
• Rehires	-	-	-	-	-	-
• Data Corrections <sup>17</sup>	-	3	1	7	-	11
■ <b>June 30, 2021</b>	1,366	920	56	89	2	1,067

<sup>16</sup> 6/30/19 retirees not in 6/30/21 data are assumed to be deceased.

<sup>17</sup> Includes 10 waived retirees and 1 retiree with age 81. The impact on liability is very small.



## PARTICIPANT STATISTICS

**This page intentionally blank**



### ACTUARIAL ASSUMPTIONS HIGHLIGHTS

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ Valuation Date	<ul style="list-style-type: none"> <li>■ June 30, 2019</li> <li>■ FY 2021/22 &amp; 2022/23 (end of year payment)</li> <li>■ 2-year lag period</li> </ul>	<ul style="list-style-type: none"> <li>■ June 30, 2021</li> <li>■ FY 2023/24 &amp; 2024/25 (end of year payment)</li> <li>■ 2-year lag period</li> </ul>
■ Funding Policy	■ Full ADC contribution	■ Same
■ General Inflation	■ 2.75%	■ 2.50%
■ Payroll Increases	<ul style="list-style-type: none"> <li>■ Aggregate Increases – 3.00%</li> <li>■ Merit Increases – CalPERS 1997-2015 Experience Study</li> </ul>	<ul style="list-style-type: none"> <li>■ Aggregate Increases – 2.75%</li> <li>■ Merit Increases – CalPERS 2000-2019 Experience Study</li> </ul>
■ Discount Rate	<ul style="list-style-type: none"> <li>■ PARS Balanced Fund</li> <li>■ 6.25%</li> <li>■ Assets transferred to PARS in March 2019</li> </ul>	<ul style="list-style-type: none"> <li>■ PARS Balanced Fund</li> <li>■ 5.75%</li> </ul>



### ACTUARIAL ASSUMPTIONS HIGHLIGHTS

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ Mortality, Withdrawal, Disability	<ul style="list-style-type: none"> <li>■ CalPERS 1997-2015 Experience Study</li> <li>■ Mortality Improvement Scale MP-2019</li> </ul>	<ul style="list-style-type: none"> <li>■ CalPERS 2000-2019 Experience Study</li> <li>■ Mortality Improvement Scale MP-2021</li> </ul>
■ Retirement	■ CalPERS 1997-2015 Experience Study	■ CalPERS 2000-2019 Experience Study



# ACTUARIAL ASSUMPTIONS HIGHLIGHTS

	June 30, 2019 Valuation			June 30, 2021 Valuation			
■ Healthcare Trend		Non-Medicare	Medicare		Non-Medicare	Medicare	
	<u>Year</u>	<u>All Plans</u>	<u>Medicare</u>	<u>Year</u>	<u>All Plans</u>	<u>Non-Kaiser</u>	<u>Kaiser</u>
	2019	Actual Premiums		2019	n/a		
	2020	Actual Premiums		2020	n/a		
	2021	7.25%	6.30%	2021	Actual Premiums		
	2022	7.00%	6.10%	2022	Actual Premiums		
	2023	6.75%	5.90%	2023	6.50%	5.65%	4.60%
	2024	6.50%	5.70%	2024	6.25%	5.45%	4.45%
	↓	↓	↓	↓	↓	↓	↓
	2030	5.20%	4.70%	2030	4.95%	4.45%	4.05%
	31-35	5.05%	4.60%	31-35	4.80%	4.35%	4.00%
	36-45	4.90%	4.50%	36-45	4.65%	4.25%	3.95%
	46-55	4.75%	4.45%	46-55	4.50%	4.20%	3.90%
	56-65	4.60%	4.40%	56-65	4.35%	4.15%	3.85%
	66-75	4.30%	4.20%	66-75	4.05%	3.95%	3.80%
	2076+	4.00%	4.00%	2076+	3.75%	3.75%	3.75%



November 2, 2022

19



# ACTUARIAL ASSUMPTIONS HIGHLIGHTS

	June 30, 2019 Valuation			June 30, 2021 Valuation		
■ PEMHCA Minimum Increases	<u>Year</u>	<u>PEMHCA Minimum</u>	<u>Unequal Method</u>	<u>Year</u>	<u>PEMHCA Minimum</u>	<u>Unequal Method</u>
	2019	\$ 136.00	\$ 115.60	2021	\$ 143.00	\$ 135.85
	2020	139.00	125.10	2022	149.00	149.00
	2021	143.00 (est. <sup>18</sup> )	135.85	2023	151.00	151.00
	2022+	Increases at CPI-U Medical (4.25%)	Increase per AB 2544	2024+	Increases at CPI-U Medical (4.00%)	
■ Dental and Vision Increases	■ 2.75%			■ 2.50%		

<sup>18</sup> CalPERS has not formally released the 2021 PEMHCA minimum amount at the time this valuation was completed.



November 2, 2022

20



# ACTUARIAL ASSUMPTIONS HIGHLIGHTS

	June 30, 2019 Valuation			June 30, 2021 Valuation		
■ Medicare B Premium Increases	<u>Year</u>	<u>Active</u>	<u>Retiree</u>	<u>Year</u>	<u>Active</u>	<u>Retiree</u>
	2019	\$135.50	Current	2021	\$148.50	Current
	2020	144.60	Premium	2022	170.10	Premium
	2021	5.10%		2023+	Increase with Post-Medicare Health Trend	
	2022+	Increase with Post-Medicare Health Trend				



# ACTUARIAL ASSUMPTIONS HIGHLIGHTS

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ PEMHCA Administration Fee	<p>■ PEMHCA - 0.27% of retiree premium added to Normal Cost</p> <p>■ PARS - 0.13% of assets added to Normal Cost</p>	<p>■ PEMHCA - 0.25% of retiree premium added to Normal Cost</p> <p>■ PARS - 0.16% of assets added to Normal Cost</p>



## ACTUARIAL ASSUMPTIONS HIGHLIGHTS

	June 30, 2019 Valuation	June 30, 2021 Valuation
<b>■ Medical Plan at Retirement</b>	<b>■ Actives</b> <u>Medical Plan</u> <u>Pre-65</u> <u>Post-65</u> Kaiser                75%      65% PERS Choice        20%      25% PERSCare            5%        10% <b>■ Retirees &lt; 65:</b> <ul style="list-style-type: none"> <li>• Pre-65: Same as current election</li> <li>• Post 65: Post 65 assumptions for actives</li> </ul> <b>■ Retirees ≥ 65: Same as current election</b>	<b>■ Actives</b> <u>Medical Plan</u> <u>Pre-65</u> <u>Post-65</u> Kaiser                75%      70% PERS Choice        20%      20% PERSCare            5%        10% <b>■ Retirees &lt; 65:</b> <ul style="list-style-type: none"> <li>• Pre-65: Same</li> <li>• Post 65: Same</li> </ul> Retirees ≥ 65: Same
<b>■ Sick Leave Usage</b>	<b>■ 50%</b> <b>■ Based on current experience</b>	<b>■ 60%</b> <b>■ Based on current experience</b> <b>■ We will continue to monitor this assumption</b>



## ACTUARIAL METHODS

	June 30, 2019 Valuation	June 30, 2021 Valuation
<b>■ Unfunded Liability Amortization</b>	<b>■ 20-yr fixed (closed) period for initial 6/30/2009 UAAL (8 years remaining on 6/30/2021)</b> <b>■ 20-yr fixed (closed) period for plan changes</b> <b>■ 15-yr fixed (closed) period for experience and contribution gains and losses, method changes, and assumption changes</b> <b>■ Maximum 30-yr combined period</b>	<b>■ 15-yr fresh start for 2023/24 ADC</b>
<b>■ Future New Entrants</b>	<b>■ No future hires included in valuation</b>	



## ASSETS

### **PARS Balance Fund – Real Rates of Return**

		Advisor Average Real Rates of Return <sup>19</sup>		
	Policy Target Allocation	1st 10 years	After 10 years	Geometric Average
■ Global Equity	60.0%	3.81%	5.31%	4.56%
■ Fixed Income	35.0%	-0.48%	2.06%	0.78%
■ Cash	5.0%	-1.21%	0.21%	-0.50%
■ Total	100.0%			

<sup>19</sup> Bartel Associates discount rate analysis based on capital market assumptions from 8 investment advisors: JP Morgan, BNY Mellon, Callan, NEPC, Verus, Meketa, PFM, Wilshire (Mar. 2021)



November 2, 2022

25



## ASSETS

### **PARS Balance Fund – Expected Discount Rate**

	Balance Fund
■ Target Allocation	
• Global Equity	60.0%
• Fixed Income	35.0%
• Cash	5.0%
• Total	100.0%
■ Discount Rate - 50% Confidence Level	5.97%
• Investment Fees	-0.15%
• Net Return	5.82%
• Rounded Net Return	5.75%



November 2, 2022

26



## ASSETS

### Market Value of Plan Assets

(Amounts in 000's)

	2019/20	2020/21	Projected 2021/22 <sup>20</sup>	Projected 2022/23 <sup>20</sup>
■ <b>Market Value (Beginning of Year)</b>	\$75,058	\$82,284	\$109,040	\$112,789
• Employer Contribution	4,635	4,332	3,946	3,543
• Benefit Payment <sup>21</sup>	-	-	-	-
• Administrative Expenses	(113)	(131)	(170)	(176)
• Investment Return	<u>2,704</u>	<u>22,554</u>	<u>-</u>	<u>6,480</u>
■ <b>Market Value (End of Year)</b>	82,284	109,040	112,789	122,636
■ <b>Approximate Annual Return</b>	3.5%	26.9%	0.0%	5.7%

<sup>20</sup> Projected using 0% rate of return for 2021/22 and 5.75% for 2022/23

<sup>21</sup> All benefit payments made by the County outside of the trust. Contributions made to trust are net of benefit payments.



November 2, 2022

27



## ASSETS

### Actuarial Value of Plan Assets

(Amounts in 000's)

	2019/20	2020/21	Projected 2021/22	Projected 2022/23
■ <b>AVA (Beginning of Year)</b>	\$75,838	\$84,616	\$97,167	\$103,291
• Employer Contribution	4,635	4,332	3,919	3,543
• Benefit Payment	-	-	-	-
• Expected Investment Return	<u>4,726</u>	<u>5,251</u>	<u>(170)</u>	<u>5,758</u>
■ <b>Expected AVA (End of Year)</b>	85,200	94,199	100,916	112,591
■ <b>MVA (End of Year)</b>	82,284	109,040	112,789	122,636
■ <b>MVA – Expected AVA</b>	(2,916)	14,841	11,873	10,045
■ <b>1/5 of (MVA – Expected AVA)</b>	(583)	2,968	2,375	2,009
■ <b>Preliminary AVA<sup>22</sup></b>	84,616	97,167	103,291	114,600
• Minimum AVA (80% of MVA)	65,827	87,232	90,231	98,109
• Maximum AVA (120% of MVA)	98,740	130,849	135,347	147,163
■ <b>AVA (End of Year)</b>	84,616	97,167	103,291	114,600
■ <b>Approximate Annual Return</b>	5.5%	9.7%	2.4%	7.7%

<sup>22</sup> Expected AVA plus 20% of the difference between the MVA and expected AVA.



November 2, 2022

28

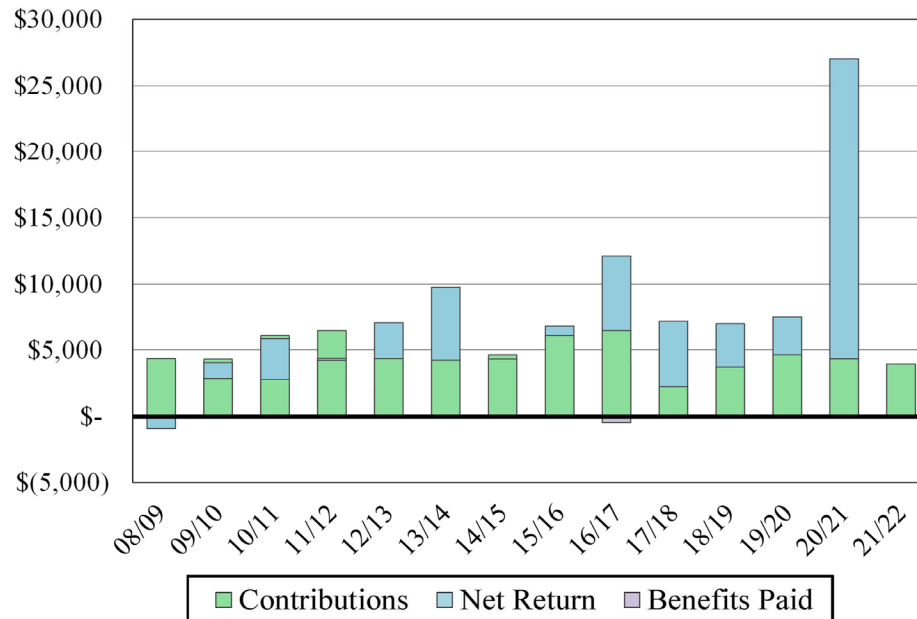




## ASSETS

### Historical Market Value of Asset Changes

(Amounts in 000's)



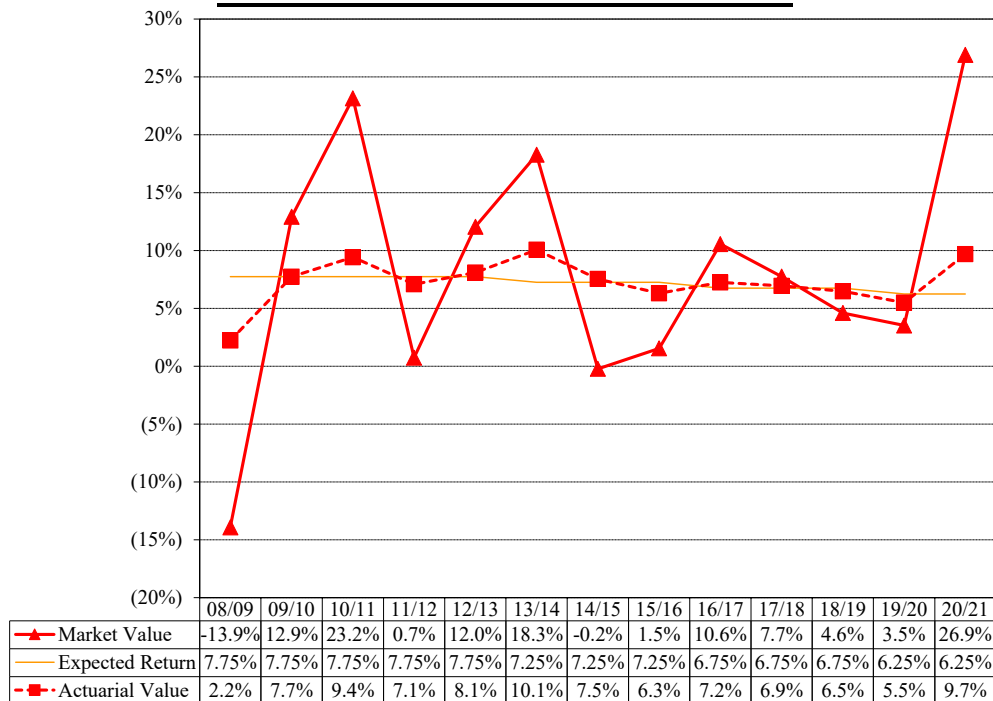
November 2, 2022

29



## ASSETS

### Historical Annualized Asset Returns



November 2, 2022

30



## RESULTS

### Actuarial Obligations

(Amounts in 000's)

	6/30/19	6/30/21	Projected 6/30/23
<b>■ Present Value of Benefits</b>			
• Actives	\$ 110,628	\$109,573	
• Retirees	<u>36,498</u>	<u>41,031</u>	
• Total	147,126	150,604	
<b>■ Actuarial Accrued Liability</b>			
• Actives	61,926	59,985	
• Retirees	<u>36,498</u>	<u>41,031</u>	
• Total	98,424	101,016	\$112,807
<b>■ Actuarial Value of Assets</b>	<u>75,838</u>	<u>97,167</u>	<u>114,600</u>
<b>■ Unfunded Liability</b>	22,586	3,849	(1,793)
<b>■ Funded Ratio</b>	77.1%	96.2%	101.6%
<b>■ Normal Cost<sup>23</sup></b>	5,713	n/a	5,261
<b>■ Pay-As-You-Go Cost<sup>24</sup></b>	4,740	4,749	5,580

<sup>23</sup> Normal costs for fiscal years 21/22, and 23/24.

<sup>24</sup> Actual amounts for fiscal year 20/21. Projected amount for fiscal year 21/22, and 23/24. Includes implied subsidy amounts.



November 2, 2022

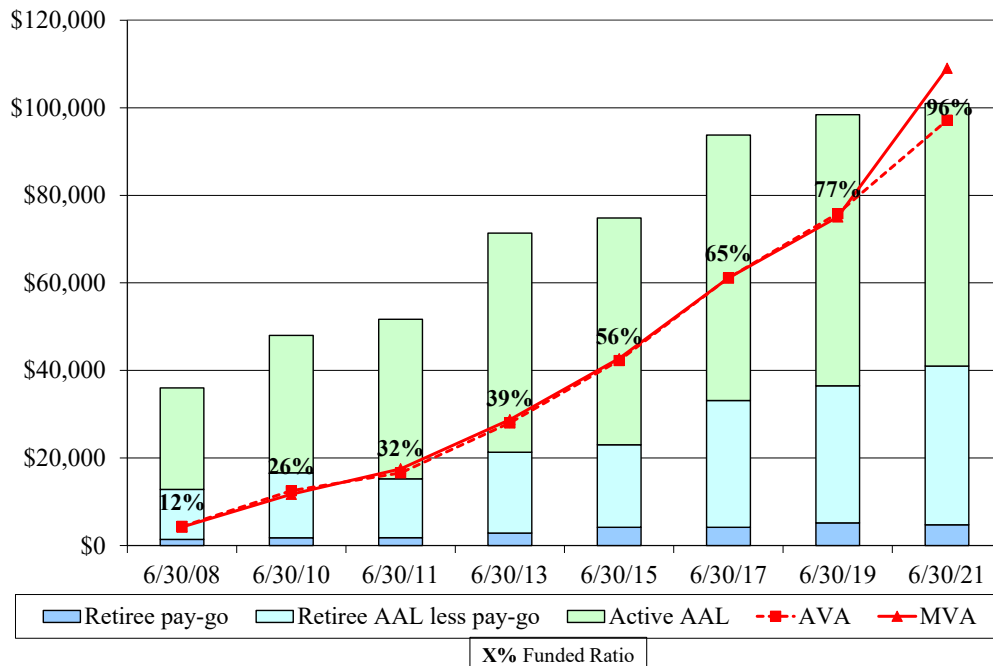
31



## RESULTS

### Historical Funded Status

(Amounts in 000's)



November 2, 2022

32



## RESULTS

### Estimated Actuarial Gains & Losses

(Amounts in 000's)

	AAL	AVA	UAAL
■ 6/30/2019 Actual Value	\$98,424	\$75,838	\$22,586
■ 6/30/2023 Expected Value	127,490	112,873	14,617
■ Experience (Gains)/Losses			
• Premiums and caps less than expected	(9,003)	-	(9,003)
• Demographic & Other	(3,611)	-	(3,611)
■ Assumption (Gains)/Losses			
• Sick Leave Usage assumption change	(2,056)	-	(2,056)
• CalPERS Experience Study	(1,778)	-	(1,778)
• Mortality improvement MP-21	(349)	-	(349)
• Medical Plan Election at Retirement	(241)	-	(241)
• Kaiser Medicare Trend	(553)	-	(553)
• Inflation (Includes DR change 6.25%→6.00%)	90	-	90
• Discount rate change 6.00%→5.75%	2,819	-	2,819
■ Contribution and Asset Gains/(Losses)	-	1,727	(1,727)
■ Total Changes	(14,683)	1,727	(16,410)
■ 6/30/2023 Actual Value	112,807	114,600	(1,793)



November 2, 2022

33



## RESULTS

### Schedule of Funding Progress

(Amounts in 000's)

Actuarial Valuation Date	Actuarial Value of Assets (a)	Entry Age Actuarial Accrued Liability (b)	Unfunded Actuarial Accrued Liability (b-a)	Funded Ratio (a/b)	Covered Payroll (c)	UAAL as Percentage of Covered Payroll ((b-a)/c)
6/30/2008	\$ 4,363	\$ 36,040	\$ 31,677	12.1%	\$ 86,030	36.8%
6/30/2010	12,519	48,008	35,489	26.1%	86,300	41.1%
6/30/2011 <sup>25</sup>	16,613	51,697	35,084	32.1%	89,105	39.4%
6/30/2013	28,016	71,369	43,353	39.3%	94,003	46.1%
6/30/2015	42,266	74,812	32,546	56.5%	106,827	30.5%
6/30/2017	61,134	93,781	32,647	65.2%	122,622	26.6%
6/30/2019	75,838	98,424	22,586	77.1%	132,830	17.0%
6/30/2021	97,167	101,016	3,849	96.2%	128,167	3.0%

<sup>25</sup> Based on 6/30/10 valuation data.

Covered payroll projected from 6/30/10 by 3.25% increase.



November 2, 2022

34



## RESULTS

### Actuarially Determined Contribution (ADC)

(Amount in 000's)

	6/30/19 Valuation		6/30/21 Valuation	
	2021/22	2022/23	2023/24	2024/25
■ <b>ADC - \$</b>				
• Normal Cost <sup>26</sup>	\$ 5,713	\$ 5,884	\$ 5,470	\$ 5,625
• UAAL Amortization	<u>2,955</u>	<u>3,044</u>	<u>(153)</u>	<u>(326)</u>
• Total ADC	8,668	8,928	5,316	5,299
■ <b>Projected Payroll</b>	132,830	136,815	135,313	139,035
■ <b>ADC- % of Total County Payroll</b>				
• Normal Cost	4.3%	4.3%	4.0%	4.0%
• UAAL Amortization	<u>2.2%</u>	<u>2.2%</u>	<u>(0.1)%</u>	<u>(0.3)%</u>
• Total ADC	6.5%	6.5%	3.9%	3.8%
■ <b>Pay-As-You-Go Cost</b>				
• Cash Subsidy	\$4,025	\$4,574	\$4,158	\$4,452
• Implied Subsidy	<u>1,141</u>	<u>1,315</u>	<u>1,079</u>	<u>1,128</u>
• Total	5,166	5,889	5,237	5,580
■ <b>Net Contributions</b>	\$ 3,502	\$ 3,039	\$ 79	\$ (281)

<sup>26</sup> Administration fees are included in normal costs.



November 2, 2022

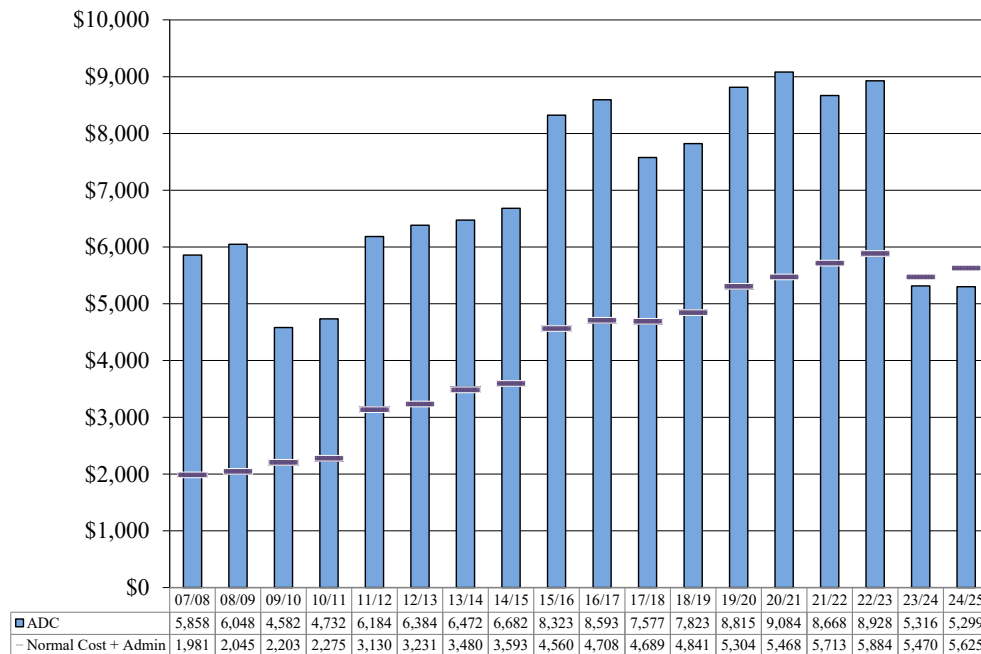
35



## RESULTS

### Annual Required Contributions/Actuarial Determined Contributions

(Amounts in 000's)



November 2, 2022

36



## RESULTS

### Amortization Bases

(Amounts in 000's)

	June 30, 2019 Valuation		June 30, 2021 Valuation	
	6/30/21	6/30/22	6/30/23	6/30/24
■ <b>Outstanding Balance</b>				
• Initial UAAL	\$ 21,850	\$ 19,988		
• Changes from 6/30/10 valuation	4,030	3,621		
• Changes from 6/30/11 valuation	(1,121)	(1,004)		
• Changes from 6/30/13 valuation	9,820	9,793		
• Changes from 6/30/15 valuation	(9,962)	(9,466)		
• Changes from 6/30/17 valuation	5,704	5,503		
• Changes from 6/30/19 valuation	(7,833)	(7,639)		
• Contribution (Gain)/Loss	(1,637)	(1,596)		
• Fresh Start of UAAL	<u>n/a</u>	<u>n/a</u>	<u>\$ (1,794)</u>	<u>\$ (3,606)</u>
• Total	20,851	19,199	(1,794)	(3,606)



November 2, 2022

37



## RESULTS

### Amortization Payments

(Amounts in 000's)

	June 30, 2019 Valuation		June 30, 2021 Valuation	
	2021/22	2022/23	2023/24	2024/25
■ <b>Amortization Payment - \$</b>				
• Initial UAAL	\$ 3,227	\$ 3,324		
• Changes from 6/30/10 valuation	661	680		
• Changes from 6/30/11 valuation	(186)	(192)		
• Changes from 6/30/13 valuation	641	660		
• Changes from 6/30/15 valuation	(1,118)	(1,152)		
• Changes from 6/30/17 valuation	558	575		
• Changes from 6/30/19 valuation	(683)	(704)		
• Contribution (Gain)/Loss	(143)	(147)		
• Fresh Start of UAAL	<u>n/a</u>	<u>n/a</u>	<u>\$ (153)</u>	<u>\$ (326)</u>
• Total	2,955	3,044	(153)	(326)
■ <b>Average Amortization Years</b>	8.4	7.4	15.0	14.0



November 2, 2022

38



652

## RESULTS

### Actuarial Obligations – By Bargaining Group<sup>27</sup>

**June 30, 2021**

(Amounts in 000's)

	Law Enforce.		Management			Public Service			
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.	Courts	Total
■ <b>PVB</b>									
• Actives	\$11,036	\$3,373	\$1,858	\$15,923	\$2,877	\$62,947	\$11,141	\$419	\$109,573
• Retirees	<u>3,660</u>	<u>2,178</u>	<u>592</u>	<u>7,500</u>	<u>6,936</u>	<u>16,168</u>	<u>3,391</u>	<u>605</u>	<u>41,031</u>
• Total	14,696	5,551	2,450	23,423	9,813	79,115	14,532	1,024	150,604
■ <b>AAL</b>									
• Actives	4,879	2,068	849	9,743	1,994	32,892	7,199	363	59,985
• Retirees	<u>3,660</u>	<u>2,178</u>	<u>592</u>	<u>7,500</u>	<u>6,936</u>	<u>16,168</u>	<u>3,391</u>	<u>605</u>	<u>41,031</u>
• Total	8,539	4,246	1,441	17,243	8,930	49,060	10,590	968	101,016
■ <b>AVA<sup>28</sup></b>	<u>8,214</u>	<u>4,084</u>	<u>1,386</u>	<u>16,586</u>	<u>8,590</u>	<u>47,191</u>	<u>10,186</u>	<u>931</u>	<u>97,167</u>
■ <b>UAAL</b>	325	162	55	657	340	1,869	404	37	3,849
■ <b>2023/24 NC</b>	642	156	107	726	153	3,011	452	12	5,261
■ <b>2023/24 BP</b>	598	234	81	1,024	596	2,457	492	97	5,580

<sup>27</sup> 11 retirees not in the 6/30/21 valuation missing group information. Their PVB, AAL, and BP allocated to current retirees.

<sup>28</sup> AVA allocation based on AAL.



November 2, 2022

39



## RESULTS

### Actuarially Determined Contribution (ADC) – By Bargaining Group

**2023/24 Fiscal Year**

(Amounts in 000's)

	Law Enforce.		Management			Public Service			
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.	Courts	Total
■ <b>ADC - \$</b>									
• Normal Cost	\$660	\$165	\$110	\$760	\$170	\$3,115	\$474	\$14	\$ 5,470
• UAAL Amort. <sup>29</sup>	<u>(13)</u>	<u>(6)</u>	<u>(2)</u>	<u>(25)</u>	<u>(12)</u>	<u>(76)</u>	<u>(16)</u>	<u>(1)</u>	<u>(153)</u>
• Total	647	159	108	735	157	3,039	458	13	5,316
■ <b>Proj. Payroll</b>	10,884	3,065	2,026	23,002	4,116	77,767	12,844	1,609	135,313
■ <b>ADC - %Pay</b>									
• Normal Cost	6.1%	5.4%	5.4%	3.3%	4.1%	4.0%	3.7%	0.9%	4.0%
• UAAL Amort.	<u>(0.1)%</u>	<u>(0.2)%</u>	<u>(0.1)%</u>	<u>(0.1)%</u>	<u>(0.3)%</u>	<u>(0.1)%</u>	<u>(0.1)%</u>	<u>(0.1)%</u>	<u>(0.1)%</u>
• Total	5.9%	5.1%	5.3%	3.2%	3.8%	3.9%	3.5%	0.8%	3.9%

<sup>29</sup> Allocated in proportion to Unfunded Actuarial Accrued Liability.



November 2, 2022

40



653

## RESULTS

### Actuarial Obligations – By Cash & Implied Subsidy

**June 30, 2021**

(Amounts in 000's)

	Cash Subsidy	Implied Subsidy	Total
■ <b>PVB</b>			
• Actives	\$ 84,568	\$ 25,005	\$ 109,573
• Retirees	<u>34,968</u>	<u>6,063</u>	<u>41,031</u>
• Total	119,536	31,068	150,604
■ <b>AAL</b>			
• Actives	46,250	13,735	59,985
• Retirees	<u>34,968</u>	<u>6,063</u>	<u>41,031</u>
• Total	81,218	19,798	101,016
■ <b>AVA<sup>30</sup></b>	<u>78,123</u>	<u>19,044</u>	<u>97,167</u>
■ <b>UAAL</b>	3,095	754	3,849
■ <b>2023/24 NC</b>	4,078	1,183	5,261
■ <b>2023/24 BP</b>	4,452	1,128	5,580

<sup>30</sup> AVA allocation based on AAL.



November 2, 2022

41



## RESULTS

### Actuarially Determined Contribution (ADC) – By Cash & Implied Subsidy

**2023/24 Fiscal Year**

(Amounts in 000's)

	Cash Subsidy	Implied Subsidy	Total
■ <b>ADC - \$</b>			
• Normal Cost	\$ 4,287	\$ 1,183	\$ 5,470
• UAAL Amort. <sup>31</sup>	<u>(123)</u>	<u>(30)</u>	<u>(153)</u>
• Total	4,164	1,153	5,316
■ <b>Proj. Payroll</b>	135,313	135,313	135,313
■ <b>ADC - %Pay</b>			
• Normal Cost	3.2%	0.9%	4.0%
• UAAL Amort.	<u>(0.1)%</u>	<u>(0.0)%</u>	<u>(0.1)%</u>
• Total	3.1%	0.9%	3.9%

<sup>31</sup> Allocated in proportion to Unfunded Actuarial Accrued Liability.



November 2, 2022

42



## RESULTS

### 10-Year Projection Illustration

(Amounts in 000's)

FYE	ADC	Contribution				Total County Payroll	ADC % of Total Pay	Contr % of Total Pay
		Cash BP	IS	Pre- Fund	Total Contrib			
2024	\$5,316	\$4,452	\$1,128	\$ (264)	\$5,316	\$135,313	3.9%	3.9%
2025	5,299	4,677	1,211	(589)	5,299	139,035	3.8%	3.8%
2026	5,295	5,050	1,344	(1,099)	5,295	142,858	3.7%	3.7%
2027	5,300	5,397	1,481	(1,578)	5,300	146,787	3.6%	3.6%
2028	5,314	5,732	1,588	(2,006)	5,314	150,823	3.5%	3.5%
2029	5,333	6,057	1,650	(2,374)	5,333	154,971	3.4%	3.4%
2030	5,357	6,392	1,752	(2,787)	5,357	159,233	3.4%	3.4%
2031	5,381	6,712	1,864	(3,195)	5,381	163,611	3.3%	3.3%
2032	5,403	6,950	1,906	(3,453)	5,403	168,111	3.2%	3.2%
2033	5,421	7,244	2,046	(3,869)	5,421	172,734	3.1%	3.1%



November 2, 2022

43



## ACTUARIAL CERTIFICATION

This report presents the County of Napa Retiree Healthcare Plan ("Plan") June 30, 2021 actuarial valuation. The purpose of this valuation is to:

- Determine the Plan's June 30, 2021 Benefit Obligations,
- Determine the Plan's June 30, 2021 Funded Status, and
- Calculate the 2023/24 and 2024/25 Actuarially Determined Contributions.

Information provided in this report may be useful to the County for the Plan's financial management. Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as: plan experience differing from that anticipated by the assumptions; changes in assumptions; changes expected as part of the natural progression of the plan; and changes in plan provisions or applicable law. Actuarial models necessarily rely on the use of estimates and are sensitive to changes. Small variations in estimates may lead to significant changes in actuarial measurements. Due to the limited scope of this assignment, we did not perform an analysis of the potential range of such measurements.

The valuation is based on Plan provisions, participant data, and asset information provided by the County as summarized in this report, which we relied on and did not audit. We reviewed the participant data for reasonableness.

To the best of our knowledge, this report is complete and accurate and has been conducted using generally accepted actuarial principles and practices. As members of the American Academy of Actuaries meeting the Academy Qualification Standards, we certify the actuarial results and opinions herein.

Respectfully submitted,

*Doug Pryor*

Doug Pryor, ASA, EA, MAAA  
Bartel Associates, LLC

*Bianca Lin*

Bianca Lin, FSA, EA, MAAA, FCA  
Bartel Associates, LLC



November 2, 2022

44



655



## EXHIBITS

<b>Topic</b>	<b>Page</b>
Premiums	E - 1
Data Summary	E - 5
Actuarial Assumptions	E - 34
Definitions	E - 49



## PREMIUMS

### 2021 PEMHCA Monthly Premiums

#### Region 1

Medical Plan	Non-Medicare Eligible			Medicare Eligible		
	Single	2-Party	Family	Single	2-Party	Family
Anthem Select	\$925.60	\$1,851.20	\$2,406.56	\$383.37	\$766.74	\$1,150.11
Anthem Traditional	1,307.86	2,615.72	3,400.44	383.37	766.74	1,150.11
Blue Shield Access+	1,170.08	2,340.16	3,042.21	n/a	n/a	n/a
Blue Shield Trio	880.50	1,761.00	2,289.30	n/a	n/a	n/a
Health Net SmartCare	1,120.21	2,240.42	2,912.55	n/a	n/a	n/a
Kaiser	813.64	1,627.28	2,115.46	324.48	648.96	973.44
UnitedHealthcare	941.17	1,882.34	2,447.04	311.56	623.12	934.68
Western Health Advantage	757.02	1,514.04	1,968.25	n/a	n/a	n/a
PERS Choice	935.84	1,871.68	2,433.18	349.97	699.94	1,049.91
PERS Select	566.67	1,133.34	1,473.34	349.97	699.94	1,049.91
PERSCare	1,294.69	2,589.38	3,366.19	381.25	762.50	1,143.75
PORAC	799.00	1,725.00	2,199.00	513.00	1,022.00	1,635.00



**PREMIUMS**

**2022 PEMHCA Monthly Premiums**

**Region 1**

Medical Plan	Non-Medicare Eligible			Medicare Eligible		
	Single	2-Party	Family	Single	2-Party	Family
Anthem Select	\$1,015.81	\$2,031.62	\$2,641.11	\$360.19	\$720.38	\$1,080.57
Anthem Traditional	1,304.00	2,608.00	3,390.40	360.19	720.38	1,080.57
Blue Shield Access+	1,116.01	2,232.02	2,901.63	353.11	706.22	1,059.33
Blue Shield Trio	898.54	1,797.08	2,336.20	353.11	706.22	1,059.33
Health Net SmartCare	1,153.00	2,306.00	2,997.80	n/a	n/a	n/a
Kaiser	857.06	1,714.12	2,228.36	302.53	605.06	907.59
UnitedHealthcare Alliance	1,020.28	2,040.56	2,652.73	n/a	n/a	n/a
UnitedHealthcare Group	n/a	n/a	n/a	294.65	589.30	883.95
UnitedHealthcare Edge	n/a	n/a	n/a	347.21	694.42	1,041.63
Western Health Advantage	741.26	1,482.52	1,927.28	314.94	629.88	944.82
PERS Platinum	1,057.01	2,114.02	2,748.23	381.94	763.88	1,145.82
PERS Gold	701.23	1,402.46	1,823.20	377.41	754.82	1,132.23
PORAC	799.00	1,725.00	2,219.00	461.00	919.00	1,471.00



November 2, 2022

E-2



**PREMIUMS**

**Delta Dental Monthly Composite Rates**

Plan	2021			2022		
	EE	EE+1	Family	EE	EE+1	Family
Delta Dental PPO	\$ 88.30	\$ 88.30	\$ 88.30	\$ 88.30	\$ 88.30	\$ 88.30
Delta Dental DMO	36.10	36.10	36.10	36.10	36.10	36.10



November 2, 2022

E-3



## PREMIUMS

### Vision Monthly Premiums

Plan	2021			2022		
	EE	EE+1	Family	EE	EE+1	Family
Low Option	\$ 5.36	\$ 10.08	\$ 15.26	\$ 5.36	\$ 10.08	\$ 15.26
High Option	10.70	19.44	27.58	10.70	19.44	27.58



November 2, 2022

E-4



## DATA SUMMARY

### Active Participant Statistics<sup>32</sup>

June 30, 2021

	Law Enforcement		Management			Public Service		Courts	Total
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.		
■ Count	84	19	26	151	20	928	120	18	1,366
■ Avg. Age	40.1	43.4	47.7	47.7	54.1	43.7	47.3	56.4	44.6
■ Avg. Co. Svc	7.7	13.5	7.8	11.7	14.3	9.3	13.7	24.2	10.2
■ Unused Sick Leave Hours:									
• Average	510	910	298	582	634	264	462	658	352
• Total (000s)	43	17	8	88	13	245	55	12	481
■ CY 2021 Pay									
• Average	119,440	148,708	71,862	140,422	189,682	77,251	98,668	n/a	91,315
• Total (000s)	10,033	2,825	1,868	21,203	3,794	71,689	11,840	n/a	123,254

<sup>32</sup> Exclude Court employees hired after 1/1/01.



November 2, 2022

E-5



## DATA SUMMARY

### Active Participant Statistics<sup>33</sup>

June 30, 2019

	Law Enforcement		Management			Public Service		Courts	Total
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.		
■ Count	83	19	21	153	20	971	121	25	1,413
■ Avg. Age	40.2	43.3	49.3	49.3	55.3	44.1	48.2	54.4	45.2
■ Avg. Co. Svc	8.1	15.4	9.0	12.6	12.6	9.2	14.1	22.7	10.3
■ Unused Sick Leave Hours:									
• Average	475	940	277	604	394	239	464	642	331
• Total (000s)	39	18	6	92	8	232	56	16	467
■ CY 2019 Pay <sup>34</sup>									
• Average	116,934	139,192	72,336	140,293	191,585	74,522	97,707	n/a	87,296
• Total (000s)	9,706	2,645	1,519	21,465	3,832	72,361	11,823	n/a	123,349

<sup>33</sup> Exclude Court employees hired after 1/1/01.

<sup>34</sup> Annualized pay from December 2019 biweekly payroll.



November 2, 2022

E-6



## DATA SUMMARY

### Inactive Participant Statistics

June 30, 2021

	Law Enforcement		Management			Public Service		Courts	N/A <sup>35</sup>	Total
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.			
■ Service Retirees <sup>36</sup>										
• Total Count	38	12	16	161	44	538	94	34	72	1,009
• Avg. Age	66.0	56.8	70.5	69.5	73.8	71.3	70.3	65.9	79.5	71.1
• Avg. Ret. Age	54.9	53.6	62.9	58.7	59.0	60.6	59.8	57.8	56.9	59.7
■ Disabled Retirees:										
• Total Count	24	1	-	4	-	22	-	-	5	56
• Avg. Age	60.5	52.5	n/a	73.3	n/a	68.5	n/a	n/a	71.3	65.4
• Avg. Ret. Age	45.4	48.3	n/a	54.0	n/a	47.8	n/a	n/a	38.9	46.4
■ Vested Term.:										
• Total Count	-	-	-	-	2	-	-	-	-	2
• Avg. Age	n/a	n/a	n/a	n/a	58.8	n/a	n/a	n/a	n/a	58.8

<sup>35</sup> Missing group information, including 71 waived (7 pre-65 and 64 post-65) and 6 PEMHCA minimum only retirees

<sup>36</sup> Count and average age includes 89 surviving spouses. Average retirement age excludes surviving spouses.



November 2, 2022

E-7



## DATA SUMMARY

### Inactive Participant Statistics

June 30, 2019

	Law Enforcement		Management			Public Service		Courts	N/A <sup>37</sup>	Total
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.			
■ Service Retirees <sup>38</sup>										
•Total Count	36	8	13	140	43	479	81	32	78	910
•Avg. Age	65.5	57.4	69.4	68.6	73.5	71.3	69.6	67.1	81.5	71.2
•Avg. Ret. Age	54.9	54.8	62.3	58.3	58.4	60.7	59.4	58.2	56.8	59.6
■ Disabled Retirees:										
•Total Count	22	1	-	4	-	21	-	1	8	57
•Avg. Age	61.3	50.5	n/a	80.6	n/a	67.6	n/a	71.0	70.6	66.2
•Avg. Ret. Age	46.1	48.3	n/a	54.6	n/a	48.0	n/a	67.2	40.8	47.1
■ Vested Term.:										
•Total Count	-	-	-	-	2	-	-	-	-	2
•Avg. Age	n/a	n/a	n/a	n/a	56.8	n/a	n/a	n/a	n/a	56.8

<sup>37</sup> Missing group information, including 81 waived (4 pre-65 and 77 post-65) and 5 PEMHCA minimum only retirees

<sup>38</sup> Count and average age includes 88 surviving spouses. Average retirement age excludes surviving spouses.



November 2, 2022

E-8



## DATA SUMMARY

### Active Participant Statistics - Courts<sup>39</sup>

June 30, 2021

	Management			Public Service		Total
	Conf.	Class.	NC/Judge	PSE	PSE Supv.	
■ Count	-	3	-	15	-	18
■ Avg. Age	-	54.0	-	56.9	-	56.4
■ Avg. Co. Svc	-	23.5	-	24.3	-	24.2
■ Unused SLH						
•Average	-	884	-	613	-	658
•Total (000s)	-	3	-	9	-	12
■ CY 2021 Pay						
•Average	n/a	n/a	n/a	n/a	n/a	n/a
•Total (000s)	n/a	n/a	n/a	n/a	n/a	n/a

<sup>39</sup> Exclude Court employees hired after 1/1/01.



November 2, 2022

E-9



## DATA SUMMARY

### Active Participant Statistics - Courts<sup>40</sup>

June 30, 2019

	Management			Public Service		Total
	Conf.	Class.	NC/Judge	PSE	PSE Supv.	
■ Count	1	3	-	18	3	25
■ Avg. Age	53.2	53.2	-	54.6	54.6	54.4
■ Avg. Co. Svc	23.9	27.3	-	22.0	22.2	22.7
■ Unused SLH						
•Average	2,250	845	-	494	794	642
•Total (000s)	2	3	-	9	2	16
■ CY 2019 Pay						
•Average	n/a	n/a	n/a	n/a	n/a	n/a
•Total (000s)	n/a	n/a	n/a	n/a	n/a	n/a

<sup>40</sup> Exclude Court employees hired after 1/1/01.



November 2, 2022

E-10



## DATA SUMMARY

### Inactive Participant Statistics - Courts

June 30, 2021

	Management			Public Service		Total
	Conf.	Class.	NC/Judge <sup>41</sup>	PSE	PSE Supv.	
■ Count:						
•Count < 65	-	2	-	13	-	15
•Count ≥ 65	-	3	1	11	4	19
•Total Count	-	5	1	24	4	34
■ Avg. Age	n/a	67.7	75.5	64.3	70.8	65.9
■ Avg. Ret. Age	n/a	58.7	64.3	56.6	63.0	57.9

<sup>41</sup> Includes 1 Judge. JRS covers costs of medical plan plus basic Medicare Part B. County reimburses Medicare charges that JRS doesn't cover. County is currently paying nothing for the Court Executive Officer.



November 2, 2022

E-11



## DATA SUMMARY

### Inactive Participant Statistics - Courts

June 30, 2019

	Management			Public Service		Total
	Conf.	Class.	NC/Judge <sup>42</sup>	PSE	PSE Supv.	
■ Count:						
•Count < 65	-	1	-	13	-	14
•Count ≥ 65	<u>-</u>	<u>3</u>	<u>6</u>	<u>7</u>	<u>3</u>	<u>19</u>
•Total Count	-	4	6	20	3	33
■ Avg. Age	n/a	67.9	76.1	64.2	69.3	67.3
■ Avg. Ret. Age	n/a	58.9	62.4	57.0	61.1	58.5

<sup>42</sup> Includes 4 Judges, 1 survivor of Judge, and 1 Court Executive Officer. JRS covers costs of medical plan plus basic Medicare Part B. County reimburses Medicare charges that JRS doesn't cover. County is currently paying nothing for the Court Executive Officer.



November 2, 2022

E-12



## DATA SUMMARY

### Inactive by Benefit Type

June 30, 2021

June 30, 2021

	Law Enforcement		Management			Public Service		Courts	N/A	Total
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.			
SLC <sup>43</sup>	17	8	3	16	-	72	16	6	17	155
LTSC	-	-	2	15	-	60	12	11	9	109
Lifetime Benefit	-	-	-	-	41	-	-	1	-	42
PEMHCA min. only	<u>40</u>	<u>-</u>	<u>10</u>	<u>112</u>	<u>5</u>	<u>428</u>	<u>66</u>	<u>16</u>	<u>84</u>	<u>761</u>
Total	57	8	15	143	46	560	94	34	110	1,067

<sup>43</sup> Includes 1 retiree with waived medical plans and use sick leave hours for dental only.



November 2, 2022

E-13



## DATA SUMMARY

### Inactive by Benefit Type

June 30, 2019

	Law Enforcement		Management			Public Service		Courts	N/A	Total
	LE	LE Supv.	Conf.	Class.	NC	PSE	PSE Supv.			
SLC <sup>44</sup>	18	7	4	24	-	72	15	4	-	144
LTSC	-	-	2	19	-	47	12	11	-	91
Lifetime Benefit	-	-	-	-	44	-	-	6	-	50
PEMHCA min. only	<u>40</u>	<u>2</u>	<u>7</u>	<u>101</u>	<u>1</u>	<u>381</u>	<u>54</u>	<u>12</u>	<u>86</u>	<u>684</u>
Total	58	9	13	144	45	500	81	33	86	969

<sup>44</sup> Includes 5 retirees with waived medical plans and use sick leave hours for dental only.



November 2, 2022

E-14



## DATA SUMMARY

### Medical Plan Participation

#### Non-Waived Participants

Plan	Actives	Retirees <sup>45</sup>		
		Pre-65	Post-65	Total
Anthem Select	0%	0%	0%	0%
Anthem Traditional	1%	0%	0%	0%
Blue Shield Access+	0%	0%	0%	0%
Health Net SmartCare	1%	1%	0%	0%
Kaiser	86%	68%	67%	67%
UnitedHealthcare	0%	0%	3%	2%
Western Health Advantage	2%	3%	0%	1%
PERS Choice	5%	19%	19%	19%
PERS Select	3%	3%	1%	2%
PERSCare	1%	5%	10%	8%
PORAC	1%	1%	0%	1%
Total	100%	100%	100%	100%

<sup>45</sup> Excludes 1 judge without medical plan information. County only reimburses a portion of Medicare premiums for judges.



November 2, 2022

E-15





## DATA SUMMARY

### Current Active Medical Plan Coverage

Plan	EE	EE+1	Family	Waived	Total
Anthem Select	1	-	1	-	2
Anthem Traditional	4	-	1	-	5
Blue Shield Access+	-	-	1	-	1
Health Net SmartCare	2	3	1	-	6
Kaiser	341	231	488	-	1,060
Western Health Advantage	10	-	15	-	25
PERS Choice	15	11	30	-	56
PERS Select	14	11	10	-	35
PERSCare	2	-	2	-	4
PORAC	-	1	4	-	5
Waived	-	-	-	167	167
Total	389	257	553	167	1,366



## DATA SUMMARY

### Retiree Medical Plan Coverage - Pre 65<sup>46</sup>

Plan	EE	EE+1	Family	N/A	Total
Anthem Traditional	1	-	-	-	1
Health Net SmartCare	2	-	-	-	2
Kaiser	111	31	16	-	158
Western Health Advantage	3	2	1	-	6
PERS Choice	34	9	1	-	44
PERS Select	5	2	1	-	8
PERSCare	8	1	2	-	11
Private Insurance	-	-	-	-	-
Not Eligible <sup>47</sup>	-	-	-	62	62
PORAC	-	3	-	-	3
Judge	-	-	-	-	-
Total	164	48	21	62	295

<sup>46</sup> Includes 1 vested terminated members.

<sup>47</sup> Includes waived retirees who will be eligible for PEMHCA minimum if re-elect.



## DATA SUMMARY

### Retiree Medical Plan Coverage - Post 65<sup>48</sup>

Plan	EE	EE+1	Family	N/A	Total
Anthem Traditional	2	-	-	-	2
Kaiser	212	82	2	-	296
UnitedHealthcare	10	4	-	-	14
Western Health Advantage	-	-	-	-	-
PERS Choice	62	24	-	-	86
PERS Select	1	2	-	-	3
PERSCare	21	23	-	-	44
Private Insurance	1	1	-	-	2
Not Eligible <sup>49</sup>	-	-	-	323	323
PORAC	1	-	-	-	1
Judges <sup>50</sup>	-	-	-	1	1
Total	310	136	2	324	772

<sup>48</sup> Includes 1 vested terminated member.

<sup>49</sup> Includes waived retirees.

<sup>50</sup> JRS pays full premiums and Medicare Part B. County reimburses the rest of the Medicare costs. Their medical plan information isn't available.



November 2, 2022

E-18



## DATA SUMMARY

### Delta Dental Plan Coverage

#### Actives

Plan	EE	EE+1	Family	Waived	Total
Delta Dental PPO	330	302	701	-	1,333
Delta Dental DMO	10	12	10	-	32
Waived	-	-	-	1	1
Total	340	314	711	1	1,366

#### Retirees

Plan	EE	EE+1	Family	Waived	Total
Delta Dental PPO <sup>51</sup>	6	17	1	-	24
Lifetime Waived <sup>52</sup>	-	-	-	26	26
Self-Paid/Waived <sup>53</sup>	14	25	10	968	1,017
Total	20	42	11	994	1,067

<sup>51</sup> Lifetime benefit and Sick Leave Conversion benefit retirees eligible for dental.

<sup>52</sup> Lifetime benefit retirees eligible for dental if re-elect. Sick Leave Conversion benefit retirees are not eligible for dental if re-elect once waived dental Plans.

<sup>53</sup> Includes 49 self-paid retirees in Delta Dental plan.



November 2, 2022

E-19



## DATA SUMMARY

### Vision Plan Coverage

#### Actives

Plan	EE	EE+1	Family	Waived	Total
Low Option Plan	161	104	166	-	431
High Option Plan	170	117	168	-	455
Waived	-	-	-	480	480
Total	331	221	334	480	1,366

#### Retirees

Plan	EE	EE+1	Family	Waived	Total
Low Option Plan	-	1	-	-	1
High Option Plan	-	9	1	-	10
Lifetime Waived <sup>54</sup>	-	-	-	30	30
Self-Paid/Waived <sup>55</sup>	87	70	14	855	1,026
Total	87	80	15	885	1,067

<sup>54</sup> Lifetime benefit retirees eligible for vision.

<sup>55</sup> Includes 160 self-paid.



November 2, 2022

E-20



## DATA SUMMARY

### Retirees Medical Plan Coverage by Age – Miscellaneous

Age	Medical Coverage				
	EE	EE+1	Family	N/A	Total
Under 50	-	-	-	3	3
50-54	11	1	1	3	16
55-59	49	9	5	6	69
60-64	85	18	5	37	145
65-69	84	43	1	70	198
70-74	92	39	1	87	219
75-79	64	24	-	68	156
80-84	30	11	-	40	81
85 & Over	22	5	-	42	69
Total	437	150	13	356	956
Average Age	69.8	70.9	60.2	73.9	71.4



November 2, 2022

E-21



# DATA SUMMARY

## Retirees Medical Plan Coverage by Age – Safety

Age	Medical Coverage				
	EE	EE+1	Family	N/A	Total
Under 50	1	-	-	4	5
50-54	5	2	7	3	17
55-59	8	8	1	1	18
60-64	5	10	2	5	22
65-69	5	2	-	5	12
70-74	3	4	-	6	13
75-79	4	4	-	2	10
80-84	2	2	-	2	6
85 & Over	3	1	-	4	8
Total	36	33	10	32	111
Average Age	65.7	65.8	55.0	67.1	65.2



November 2, 2022

E-22



# DATA SUMMARY

## Actives by Age and Service – Miscellaneous

Age	County Service							
	< 1	1-4	5-9	10-14	15-19	20-24	25+	Total
< 25	1	5	1	-	-	-	-	7
25-29	22	61	10	-	-	-	-	93
30-34	23	89	47	6	-	-	-	165
35-39	12	60	65	37	9	-	-	183
40-44	13	45	60	53	39	11	-	221
45-49	2	26	29	35	42	28	2	164
50-54	5	27	24	25	34	34	14	163
55-59	3	17	20	25	30	26	19	140
60-64	1	4	14	14	20	14	8	75
≥ 65	-	5	7	7	3	12	8	42
Total	82	339	277	202	177	125	51	1,253



November 2, 2022

E-23



# DATA SUMMARY

## Actives by Age and Service – Safety

Age	County Service							
	< 1	1-4	5-9	10-14	15-19	20-24	25+	Total
< 25	-	1	-	-	-	-	-	1
25-29	1	7	-	-	-	-	-	8
30-34	1	10	5	1	-	-	-	17
35-39	3	9	6	4	-	-	-	22
40-44	-	3	8	4	6	1	-	22
45-49	-	4	4	4	5	8	1	26
50-54	-	3	1	3	5	3	1	16
55-59	-	-	-	-	-	1	-	1
60-64	-	-	-	-	-	-	-	-
≥ 65	-	-	-	-	-	-	-	-
<b>Total</b>	5	37	24	16	16	13	2	113



November 2, 2022

E-24



# DATA SUMMARY

## Actives by Age and Service – Total

Age	County Service							
	< 1	1-4	5-9	10-14	15-19	20-24	25+	Total
< 25	1	6	1	-	-	-	-	8
25-29	23	68	10	-	-	-	-	101
30-34	24	99	52	7	-	-	-	182
35-39	15	69	71	41	9	-	-	205
40-44	13	48	68	57	45	12	-	243
45-49	2	30	33	39	47	36	3	190
50-54	5	30	25	28	39	37	15	179
55-59	3	17	20	25	30	27	19	141
60-64	1	4	14	14	20	14	8	75
≥ 65	-	5	7	7	3	12	8	42
<b>Total</b>	87	376	301	218	193	138	53	1,366



November 2, 2022

E-25



# ACTUARIAL ASSUMPTIONS

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ Valuation Date	■ June 30, 2019 ■ FY 2021/22 & 2022/23 (end of year payment) ■ 2-year lag period	■ June 30, 2021 ■ FY 2023/24 & 2024/25 (end of year payment) ■ 2-year lag period
■ General Inflation	■ 2.75%	■ 2.50%
■ Payroll Increases	■ Aggregate Increases – 3.00% ■ Merit Increases – CalPERS 1997-2015 Experience Study	■ Aggregate Increases – 2.75% ■ Merit Increases – CalPERS 2000-2019 Experience Study
■ Discount Rate	■ PARS Balanced Fund ■ 6.25%	■ PARS Balanced Fund ■ 5.75%
■ Mortality, Withdrawal, Disability	■ CalPERS 1997-2015 Experience Study ■ Mortality Improvement Scale MP-2019	■ CalPERS 2000-2019 Experience Study ■ Mortality Improvement Scale MP-2021



# ACTUARIAL ASSUMPTIONS

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ Retirement	■ CalPERS 1997-2015 Experience Study	■ CalPERS 2000-2019 Experience Study
■ Deferred Retirement Age	■ Age 50 or immediate retirement if older than age 50	■ Same



# **ACTUARIAL ASSUMPTIONS**

	June 30, 2019 Valuation			June 30, 2021 Valuation			
■ Healthcare Trend	<u>Year</u>	<u>Increase from Prior Year</u>		<u>Non-Medicare</u>	<u>Medicare</u>	<u>Non-Medicare</u>	<u>Medicare</u>
	2019-20	Actual Premiums		<u>Year</u>	<u>All Plans</u>	<u>Non-Kaiser</u>	<u>Kaiser</u>
	2021	7.25%	6.30%	2019		n/a	
	2022	7.00%	6.10%	2020		n/a	
	2023	6.75%	5.90%	2021	Actual Premiums		
	2024	6.50%	5.70%	2022	Actual Premiums		
	2025	6.25%	5.50%	2023	6.50%	5.65%	4.60%
	2026	6.00%	5.30%	2024	6.25%	5.45%	4.45%
	2027	5.80%	5.15%	↓	↓	↓	↓
	2028	5.60%	5.00%	2030	4.95%	4.45%	4.05%
	2029	5.40%	4.85%	31-35	4.80%	4.35%	4.00%
	2030	5.20%	4.70%	36-45	4.65%	4.25%	3.95%
	2031-35	5.05%	4.60%	46-55	4.50%	4.20%	3.90%
	2036-45	4.90%	4.50%	56-65	4.35%	4.15%	3.85%
	2046-55	4.75%	4.45%	66-75	4.05%	3.95%	3.80%
	2056-65	4.60%	4.40%	2076+	3.75%	3.75%	3.75%
	2066-75	4.30%	4.20%				
	2076+	4.00%	4.00%				



November 2, 2022

E-28



# **ACTUARIAL ASSUMPTIONS**

	June 30, 2019 Valuation			June 30, 2021 Valuation		
■ PEMHCA Minimum Increases	<u>Year</u>	<u>PEMHCA Minimum</u>	<u>Unequal Method</u>	<u>Year</u>	<u>PEMHCA Minimum</u>	<u>Unequal Method</u>
	2019	\$ 136.00	\$ 115.60	2021	\$ 143.00	\$ 135.85
	2020	139.00	125.10	2022	149.00	149.00
	2021	143.00 (est.)	135.85	2023	151.00	151.00
	2022+	Increases at CPI-U Medical (4.25%)	Increase per AB 2544	2024+	Increases at CPI-U Medical (4.00%)	
■ AB 2544 Maximum \$100 Annual Increase	■ Does not increase in the future			■ Same		
■ Medical Cap Increases	■ Pre-Medicare Health Trend			■ Same		



November 2, 2022

E-29



# **ACTUARIAL ASSUMPTIONS**

	June 30, 2019 Valuation	June 30, 2021 Valuation																					
■ Dental and Vision Increases	■ 2.75%	■ 2.50%																					
■ Medicare B Premium Increases	<table> <tr> <th><u>Year</u></th><th><u>Active</u></th><th><u>Retiree</u></th></tr> <tr> <td>2019</td><td>\$135.50</td><td>Current</td></tr> <tr> <td>2020</td><td>144.60</td><td>Premium</td></tr> <tr> <td>2021</td><td>5.10%</td><td></td></tr> <tr> <td>2022+</td><td colspan="2">Increase with Post-Medicare Health Trend</td></tr> </table>	<u>Year</u>	<u>Active</u>	<u>Retiree</u>	2019	\$135.50	Current	2020	144.60	Premium	2021	5.10%		2022+	Increase with Post-Medicare Health Trend		<table> <tr> <th><u>Year</u></th><th><u>Active</u></th><th><u>Retiree</u></th></tr> <tr> <td>2022+</td><td colspan="2">Increase with Post-Medicare Health Trend</td></tr> </table>	<u>Year</u>	<u>Active</u>	<u>Retiree</u>	2022+	Increase with Post-Medicare Health Trend	
<u>Year</u>	<u>Active</u>	<u>Retiree</u>																					
2019	\$135.50	Current																					
2020	144.60	Premium																					
2021	5.10%																						
2022+	Increase with Post-Medicare Health Trend																						
<u>Year</u>	<u>Active</u>	<u>Retiree</u>																					
2022+	Increase with Post-Medicare Health Trend																						
■ PEMHCA Administration Fee	<p>■ PEMHCA - 0.27% of retiree premium added to Normal Cost</p> <p>■ PARS - 0.13% of assets added to Normal Cost</p>	<p>■ PEMHCA - 0.25% of retiree premium added to Normal Cost</p> <p>■ PARS - 0.16% of assets added to Normal Cost</p>																					



November 2, 2022

E-30



# **ACTUARIAL ASSUMPTIONS**

	June 30, 2019 Valuation	June 30, 2021 Valuation																
■ Non-County CalPERS Service	■ Actual CalPERS service	■ Same																
■ Participation at Retirement	<div>■ Supplemental benefit:<ul style="list-style-type: none"><li>● Currently covered: 100%</li><li>● Currently waived: 90%</li></ul></div> <div>■ PEMHCA min only:<ul style="list-style-type: none"><li>● Currently with SLC or LTSC benefits:</li></ul></div> <table><thead><tr><th><u>Year</u></th><th><u>Participation</u></th></tr></thead><tbody><tr><td>2008</td><td>50%</td></tr><tr><td>2009</td><td>52%</td></tr><tr><td>2010</td><td>54%</td></tr><tr><td>2011</td><td>56%</td></tr><tr><td>2012</td><td>58%</td></tr><tr><td>:</td><td>:</td></tr><tr><td>2022+</td><td>80%</td></tr></tbody></table> <div>New Retirees: 50%</div>	<u>Year</u>	<u>Participation</u>	2008	50%	2009	52%	2010	54%	2011	56%	2012	58%	:	:	2022+	80%	■ Same
<u>Year</u>	<u>Participation</u>																	
2008	50%																	
2009	52%																	
2010	54%																	
2011	56%																	
2012	58%																	
:	:																	
2022+	80%																	



November 2, 2022

E-31





# **ACTUARIAL ASSUMPTIONS**

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ Benefit Coordination	<ul style="list-style-type: none"> <li>■ Always elect lifetime benefit if eligible</li> <li>■ SLC eligible participant always chooses medical coverage over dental coverage (more expensive benefit)</li> </ul>	■ Same



November 2, 2022

E-32



# **ACTUARIAL ASSUMPTIONS**

	June 30, 2019 Valuation	June 30, 2021 Valuation																								
■ Medical Plan at Retirement	<ul style="list-style-type: none"> <li>■ Actives                             <table border="1"> <thead> <tr> <th>Medical Plan</th><th>Pre-65</th><th>Post-65</th></tr> </thead> <tbody> <tr> <td>Kaiser</td><td>75%</td><td>65%</td></tr> <tr> <td>PERS Choice</td><td>20%</td><td>25%</td></tr> <tr> <td>PERSCare</td><td>5%</td><td>10%</td></tr> </tbody> </table> </li> <li>■ Retirees &lt; 65:                             <ul style="list-style-type: none"> <li>• Pre-65: Same as current election</li> <li>• Post 65: Post 65 assumptions for actives</li> </ul> </li> <li>■ Retirees ≥ 65: Same as current election</li> </ul>	Medical Plan	Pre-65	Post-65	Kaiser	75%	65%	PERS Choice	20%	25%	PERSCare	5%	10%	<ul style="list-style-type: none"> <li>■ Actives                             <table border="1"> <thead> <tr> <th>Medical Plan</th><th>Pre-65</th><th>Post-65</th></tr> </thead> <tbody> <tr> <td>Kaiser</td><td>75%</td><td>70%</td></tr> <tr> <td>PERS Choice</td><td>20%</td><td>20%</td></tr> <tr> <td>PERSCare</td><td>5%</td><td>10%</td></tr> </tbody> </table> </li> <li>■ Retirees &lt; 65:                             <ul style="list-style-type: none"> <li>• Pre-65: Same</li> <li>• Post 65: Same</li> </ul> </li> <li>■ Retirees ≥ 65: Same</li> </ul>	Medical Plan	Pre-65	Post-65	Kaiser	75%	70%	PERS Choice	20%	20%	PERSCare	5%	10%
Medical Plan	Pre-65	Post-65																								
Kaiser	75%	65%																								
PERS Choice	20%	25%																								
PERSCare	5%	10%																								
Medical Plan	Pre-65	Post-65																								
Kaiser	75%	70%																								
PERS Choice	20%	20%																								
PERSCare	5%	10%																								
■ Dental at Retirement	■ Delta Dental PPO	■ Same																								
■ Vision at Retirement	■ Current plan	■ Same																								



November 2, 2022

E-33



# ACTUARIAL ASSUMPTIONS

	June 30, 2019 Valuation	June 30, 2021 Valuation								
■ Waived retiree re-election (PEMHCA minimum only)	■ Currently over 65 – none ■ Currently under 65 – 20% re-elect at age 65	■ Same								
■ Future Sick Leave Accrual	<table><tr><td></td><td><u>LE</u></td><td><u>Mgmt</u></td><td><u>PSE</u></td></tr><tr><td>Hrs/Yr</td><td>96</td><td>98.8</td><td>98.8</td></tr></table>		<u>LE</u>	<u>Mgmt</u>	<u>PSE</u>	Hrs/Yr	96	98.8	98.8	■ Same
	<u>LE</u>	<u>Mgmt</u>	<u>PSE</u>							
Hrs/Yr	96	98.8	98.8							
■ Sick Leave Usage	■ 50% ■ Based on current experience	■ 60% ■ Based on current experience								
■ Marital Status	■ Currently covered: based on current coverage status ■ Currently waived: 80% married	■ Same								



November 2, 2022

E-34



# ACTUARIAL ASSUMPTIONS

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ Spouse Age	■ Males 3 years older than females if birth date not available	■ Same
■ Surviving Spouse participation	■ 100%	■ Same
■ Dependents at Retirement	<ul style="list-style-type: none"> <li>■ Pre-65: <ul style="list-style-type: none"> <li>• Actives: 15%</li> <li>• Retirees: Current coverage</li> </ul> </li> <li>■ Post-65: 0%</li> </ul>	■ Same



November 2, 2022

E-35



# **ACTUARIAL ASSUMPTIONS**

	June 30, 2019 Valuation	June 30, 2021 Valuation
■ Medicare Participation Rate	<ul style="list-style-type: none"> <li>■ Actives and pre-65 retirees:100%</li> <li>■ Post-65 retirees: current status</li> <li>■ Everyone eligible for Medicare will elect Part B coverage</li> </ul>	■ Same



November 2,2022

E-36



# **ACTUARIAL ASSUMPTIONS**

	June 30, 2021 Valuation						
■ HMO Medical Claims Costs 2021 PEMHCA Implied Subsidy Estimate	<ul style="list-style-type: none"> <li>■ Sample estimated monthly claims costs</li> </ul>						
	Region 1 - Non-Medicare Eligible						
		HNS Care		Kaiser		Western Health	
	<u>Age</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>
	25	\$380	\$665	\$298	\$522	\$261	\$456
	35	484	821	380	645	332	563
	45	691	1,008	543	791	475	691
	55	1,147	1,337	902	1,049	788	916
	60	1,447	1,519	1,138	1,192	994	1,041
	65	1,790	1,762	1,407	1,383	1,229	1,208
	70	2,175	2,089	1,709	1,639	1,493	1,432
	75	2,582	2,440	2,029	1,914	1,773	1,672
	80	2,997	2,810	2,356	2,205	2,058	1,926
	Region 1 - Medicare Eligible						
		HNS Care		Kaiser		Western Health	
	<u>Age</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>
	65	n/a	n/a	n/a	n/a	n/a	n/a
	70	n/a	n/a	n/a	n/a	n/a	n/a
	75	n/a	n/a	n/a	n/a	n/a	n/a
	80	n/a	n/a	n/a	n/a	n/a	n/a



November 2,2022

E-37



# **ACTUARIAL ASSUMPTIONS**

	<b>June 30, 2021 Valuation</b>						
<b>■ PPO Medical Claims Costs 2021 PEMHCA Implied Subsidy Estimate</b>	<b>■ Sample estimated monthly claims costs</b>						
	Region 1 - NonMedicare Eligible						
		<u>PERS Choice</u>		<u>PERSCare</u>		<u>PORAC</u>	
	<u>Age</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>
	25	\$268	\$500	\$349	\$639	\$312	\$565
	35	353	628	455	798	405	705
	45	525	784	670	991	590	872
	55	914	1,063	1,148	1,333	1,002	1,171
	60	1,173	1,220	1,466	1,525	1,275	1,337
	65	1,463	1,425	1,822	1,776	1,583	1,556
	70	1,784	1,695	2,219	2,111	1,928	1,849
	75	2,123	1,984	2,638	2,468	2,292	2,162
	80	2,470	2,291	3,067	2,847	2,664	2,494
	Region 1 - Medicare Eligible						
		<u>PERS Choice</u>		<u>PERSCare</u>		<u>PORAC</u>	
	<u>Age</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>
	65	\$ 273	\$ 333	\$ 290	\$ 354	\$ 398	\$ 481
	70	305	374	324	397	445	540
	75	329	404	349	428	478	583
	80	341	422	361	447	496	609



November 2,2022

E-38



# **ACTUARIAL ASSUMPTIONS**

	<b>June 30, 2021 Valuation</b>						
<b>■ Basis for Assumptions</b>	<b>■ No experience study performed for this Plan</b>						
	<b>■ CalPERS 2021 experience study covering 2000 to 2019 experience was used</b>						
	<b>■ Mortality improvement is a Society of Actuaries table</b>						
	<b>■ Inflation based on our estimate for the Plan's long time horizon</b>						
	<b>■ Capital market assumptions based on 2021 Bartel Associates stochastic analysis, taking into account capital market assumptions of investment advisory firms</b>						
	<b>■ Age-based claims costs are based on tables published by the Society of Actuaries and tables developed by Axene Health Partners based on demographic data for the CalPERS health plans provided by CalPERS and Axene's proprietary AHP Cost Model</b>						
	<b>■ Short-term medical trend was developed in consultation with Axene Health Partners' healthcare actuaries. Long term medical trend developed using the Society of Actuaries Getzen Model of Long-Run Medical Cost Trends</b>						
	<b>■ Medical coverage and participation based in part on Plan experience</b>						



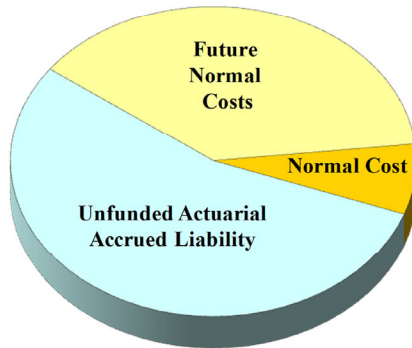
November 2,2022

E-39

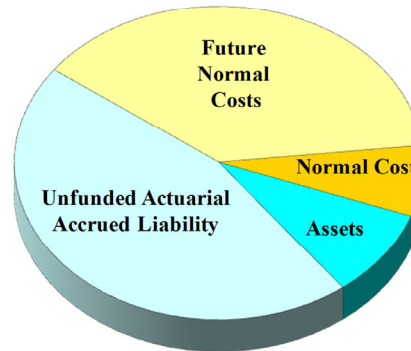


## Present Value of Benefits

**Present Value of Benefits  
(Without Plan Assets)**



**Present Value of Benefits  
(With Plan Assets)**



- **AAL – Actuarial Accrued Liability / Actuarial Obligation**
  - Discounted value at measurement date (valuation date) of benefits “earned” through measurement date based on actuarial cost method
  - Portion of PVB “earned” at measurement
- **NC - Normal Cost**
  - Value of benefits “earned” during current year
  - Portion of PVB allocated to current year
- **Actuarial Cost Method**
  - Determines how benefits are “earned” or allocated to each year of service
  - Has no effect on PVB
  - Has significant effect on Actuarial Obligations and Normal Cost
- **Pay-As-You-Go Cost (PayGo)**
  - Cash Subsidy – Actual cash benefit payments to retirees
  - Implied Subsidy – Difference between cost of retiree benefits and retiree premiums
  - PayGo is the expected retiree benefit payments for the year while Normal Cost is the cost of benefits accrued by active employees during the year.

**NAPA COUNTY  
5-YEAR GENERAL FUND  
FORECAST  
PREPARED IN FISCAL YEAR 2022-23 FOR  
FISCAL YEAR 2023-24 THROUGH 2027-28**

**Introduction:**

Napa County has a long history of financial stability and fiscal prudence, which results in services that are provided consistently. The **5-year General Fund Forecast** (5-year Forecast) is one of the tools to support fiscal prudence. The **5-Year Forecast** is updated annually and is used with the County's five-year **Strategic Financial Plan**, and the annual **Budget Policies** to guide the annual Recommended Budget.

Each year, as part of the annual budget process, staff provides the Board with a forecast of what the General Fund's financial condition could look like over the next five years. This is important, because revenue and expenditure decisions that are made in the budget year can have a significant impact on future year General Fund resources and obligations. The results of the 5-Year Forecast are used, along with the County's multi-year Strategic Financial Plans to guide how we prepare the Recommended Budget.

The 5-Year Forecast provides the Board with a representation of the General Fund outlook. The projections assume that the county will provide the existing level of service. The projections also include some of the Board's priorities such as Fire protection. The projection assumes there will not be legislative changes that will affect revenues or programs and our adopted policy structure will remain constant during these five years. The figures provided in the **5-Year Forecast** are based on high-level assumptions. Projected amounts are intended to show general trends and are not preliminary budget figures.

**Forecasting Methodology:**

Forecasting revenue and expenditures is full of uncertainty. The economy continues to show mixed signals with some sectors being strong and other sectors clearly weak. For the purposes of this report, future years' projections are based on the Adopted Budget for FY 2022-23 General Fund revenue and expenditures. In addition, the report makes several assumptions about what will happen over the next five years including inflation rates, state budgets, and economic conditions. This forecasting methodology does not include any capital improvement projects, Federal Emergency Management Agency (FEMA) reimbursements or insurance proceeds.

**5-YEAR FORECASTS**  
**FY 2023-24-FY 2027-28**

**Economic Conditions:**

Supply chain disruptions continue to hamper certain industries and strong consumer demand is also driving inflation. Inflationary pressures, which were previously isolated to certain industries such as lumber, now extend well into the economy. This includes the service sector which is more reliant on labor. Inflation is now no longer seen as short-term phenomena. Geopolitical issues, particularly the war in Ukraine continue to impact the high price of fuel and food, both of which have broader knock-on effects.

In response to a 40-year high inflation rate, the federal reserve has increased interest rates multiple times over the previous months. Additional rate hikes totaling 0.75% are expected later this year. This has led to slumping financial markets, though not a significant economic slowdown. The higher interest rates are increasing borrowing costs. The industries which will be negatively impacted the most from these high borrowing costs are the industries that rely on consumer credit, these are housing and automobiles.

The unemployment rate remains low and is a signal that the job market is strong but may also partially reflect a historically low labor force participation rate. However, there may be worrying signs among certain industries. Amazon, Twitter, Microsoft, Google, and Meta (the parent company of Facebook) have all announced they are laying off thousands of their employees. The high wages and high share value of these companies had previously been a main driver of wealth in California and in the Bay Area region. This is especially true for the state's General Fund, which relies heavily on proceeds from financial assets and high-income earners.

As of 2022, the State of California's budget has experienced four consecutive months of revenues coming in lower than expectations. The January 2023 state budget proposal projects a \$22.5 billion budget deficit. The governor's office, however, does not expect significant reductions in programs. Additionally, Napa County's General Fund does not rely heavily on state revenues. While a reduction in state revenues may be concerning, it will have little impact on the county's general fund. This is because the county does not backfill reductions in state programs.

Locally, travel and tourism have returned to pre-pandemic levels. Meanwhile sales tax receipts have continued to improve and are expected to grow modestly. The Napa workforce, however, remains stagnant as employers have a harder time finding workers. The labor force is expected to grow modestly. The local Napa population, like the state, continues to decline in population. Furthermore, Napa's population continues to age resulting in schools closing. This trend is expected to continue. Housing prices in Napa are expected to decline modestly (around 4.6%) though this is not likely to mean property tax revenue will decline, property tax revenues may simply grow slower than in previous years.

## **5-YEAR FORECASTS**

### **FY 2023-24-FY 2027-28**

#### **Baseline assumptions:**

The baseline forecast assumes the existing level of service. Certain previously identified board priorities such as Fire prevention, Groundwater and Cyber Security are included in the projection. This forecast assumes that the Board will continue to maintain the fiscal approach set forth in its Budget Policies.

The baseline forecast also assumes that most outside resources will increase at the current pace to continue to fund program services, and there is no incremental encroachment on the General Fund. The baseline includes a conservative revenue growth estimate and increases the additional annual operating costs for the replacement jail beginning in FY 2023-24. We estimate the cost of the replacement jail at \$855,000 initially. Once the jail has been fully staffed for an entire year the cost is estimated at \$3.42 million, which we expect to grow by roughly 4% each year. Fire protection is included as an expense in this forecast.

#### **Napa County's Budgeting Practices:**

The basic categories of General Fund expenses in Napa County's budget are Salaries and Benefits, Services and Supplies, and Other Expenses. Napa County budgets positions assuming that all positions will be filled for the entire year with the full weight of their benefit costs. Then a vacancy factor is calculated to account for turnover and hiring lags. The difference between budgeted amounts for salaries and benefits and actual expenditures varies from year to year.

Napa County budgets and encumbers the maximum cost of executed contracts. When the total amount allowed to be spent in a contract is not used, it creates savings. When comparing the budget to actual activity, the percentage difference has averaged 11% annually in unspent appropriations since 2012-13 and varied significantly. We are using a more conservative 7% assumption of services and supplies savings.

#### **Revenue projections:**

Taking what economists are projecting for the economy, the current state of the local housing market, and State and Federal budgets into consideration, we assume that revenue will grow modestly during Fiscal Year 2023-24.

- Secured Property Tax revenues are expected to grow 4% each year of the forecast.
- Unsecured Property Tax revenues are expected to grow at 2% for all 5 years. These projections are supported by data provided by the County Assessor.
- Property Taxes-Vehicle License Fee Swap (VLF) revenue projections are based on the 2022-23 adopted budget with a growth rate of 3%. We anticipate that the County's only remaining non-basic aid school district will turn basic aid in Fiscal Year 2023-24. Pending any legislative change, this will eliminate the only remaining statutorily defined funding source and will significantly impact the County, as well as our cities and town.



## **5-YEAR FORECASTS**

### **FY 2023-24-FY 2027-28**

If the state follows its past practice, the anticipated result is a sudden two-year lag in receiving these revenues, which is reflected in the forecast as a loss of \$25M in Fiscal Year 2024-25 and \$25M in 2025-26.

- Supplemental Property Tax revenue projections are based on the 2022-23 adopted budget with a 4% assumption for years 1 through year 5.
- Sales Tax revenue is based on projections provided by the County's independent tax consultant. Sales tax is expected to grow but not at the pace it had in previous years.
- Transient Occupancy Tax revenues are estimated to grow compared to previous years. The current projection is based on data from Visit Napa Valley. This revenue is then projected to increase by 2% each year. This projection is, however, conservative because Transient Occupancy Tax is one of the more volatile revenue sources for the County.
- Other discretionary revenues are based on 2022-23 adopted budget with a flat or 2-3% growth assumed per year.

### **Expenditure projections:**

The projections assume existing levels of service (including staffing and program costs) and assume that expenses will grow.

- Salary and Benefits assumes growth of 3.25% per year due the Memorandum of Understanding agreed upon in 2022. Subsequent years project increases in Salary and Benefits of 3% per year.
- Services and Supplies assumes growth of 5% per year in Fiscal Year 2023-24. The next two years project that the increases will decline to 4% then 3% the following two years after that, as inflation cools. Some of our contracted services have built in CPI inflators.
- Other Expenses
  - Operating cost increases for replacement jail – these are expected beginning in early FY 2023-24 at \$855,000. Once the replacement jail is fully operating, the fiscal year cost is estimated at an additional cost of \$3.4 million with growth of 4% per year assumed.
  - The forecasts include costs to start addressing high priorities, including implementing the American with Disabilities Act (ADA) Transition Plan for accessible services, cyber security, groundwater, and the County's participation in regional climate action planning. These four costs amount to \$3.2 annually starting in Fiscal Year 2023-24 and growing steadily in subsequent years.
- Fire prevention – the current forecast includes the cost to implement the Community Wildfire Protection Plan (CWPP). This forecast assumes that no additional revenue will be received to meet this board priority. Without additional revenue for fire prevention, the Board may need to provide significant additional General Fund support for fire protection which will begin to erode core county services. The projection estimates an annual cost of \$8.5—9.6 million, over the next 5 years.

**5-YEAR FORECASTS**  
**FY 2023-24-FY 2027-28**

After accounting for all these assumptions, the forecast shows that the General Fund is structurally sound. This means that over the next 5 years the General Fund does not project long term expenses that will outpace the likely growth in revenues.

The General Fund has recovered from the COVID-19 pandemic, but there are new concerns for future years. One of the most significant issues the General Fund potentially faces is the two-year loss in VLF Swap revenues beginning in Fiscal Year 2024-25. Second, additional increases in inflation, particularly for employee Salary and Wages, might increase expenses faster than revenues in the coming fiscal years. Inflation, however, appears to be cooling. Lastly, the additional costs of operating the replacement jail and the costs to fire protection are significant expenses in the coming years. Without new dedicated revenue, the costs of fire protection may begin to erode core county functions.

The below chart shows the forecast's potential surplus or deficit in each fiscal year. This forecast assumes the County will not receive VLF revenues for two fiscal years, will pay the cost of the Community Wildfire Protection Plan entirely from the General Fund, and adds the cost of operating the replacement jail among other cost mentioned above. This projection estimates modest revenue growth with no recession.

	23-24	24-25	25-26	26-27	27-28
<b>Potential Surplus or Deficit</b>	\$8,491,000	(\$17,239,000)	(\$17,468,000)	\$8,984,000	\$9,151,000

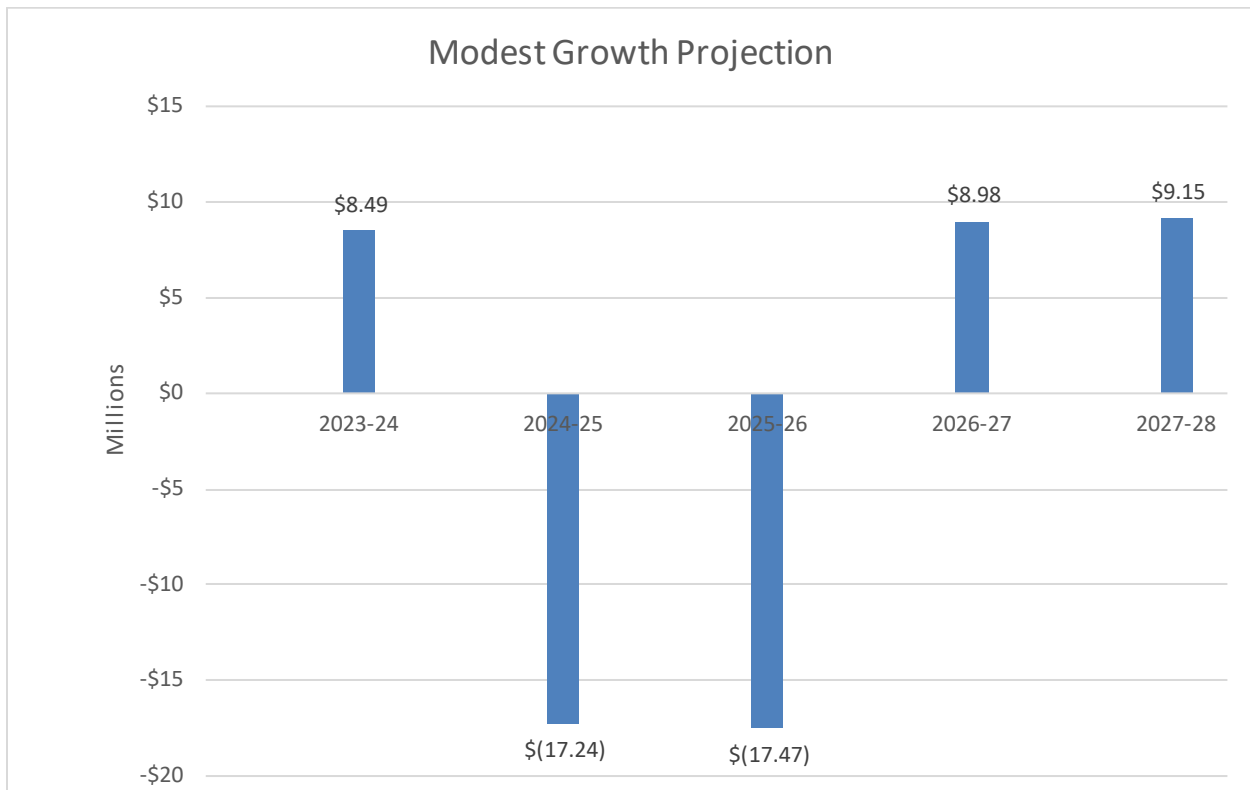
The forecast shows that if the VLF issue does not have a legislative fix, the County's General Fund would take a significant hit beginning in 2024-25 and lasting through 2025-26.

**Two Hypotheticals: One of modest revenue growth and one of Mild Recession**

**Base Projection:**

The below base projection follows the assumptions described above. This projection assumes conservative but realistic revenue growth with no recession over the next 5 years. This projection also assumes that there will be no legislative fix to the VLF. The projection furthermore assumes that there will be no dedicated new revenue for Fire protection and that the replacement jail will initially cost an additional \$855,000 then will be \$3.42 million once it is fully operational for a full year and that this additional cost will grow at 4% each year after that. Other costs include implementing climate action, groundwater, ADA, and cyber security.

**5-YEAR FORECASTS**  
**FY 2023-24-FY 2027-28**



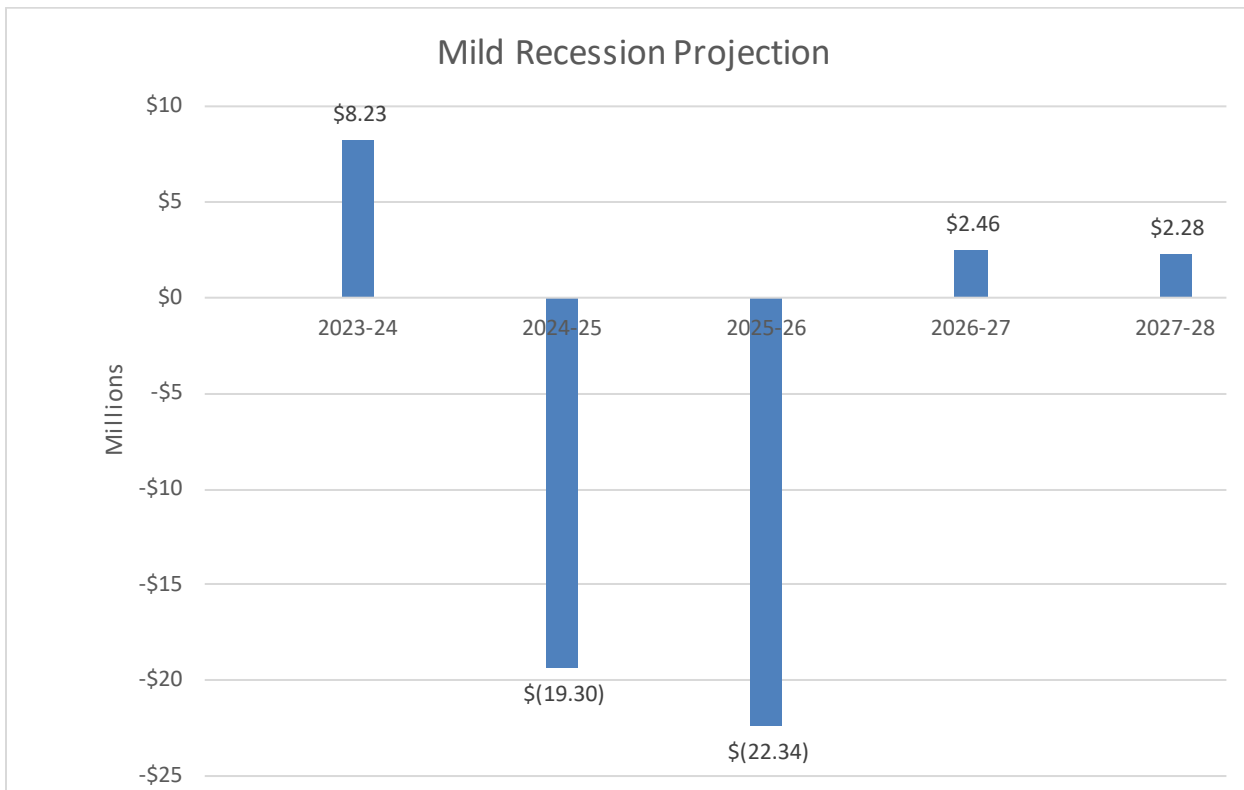
The deficit shown in FY204-25 and FY2025-26 is due to no legislative fix from the VLF.

**Mild Recession Scenario:**

The mild recession scenario makes similar assumptions throughout the base forecast with some major exceptions. This projection assumes the three major General Fund revenue sources, Property Tax, Sales Tax and Transient Occupancy Tax will decline or grow more slowly. Property tax is not projected to decline even with a mild recession because history has shown that, due in part to the state's housing shortage, property tax receipts are particularly resilient to economic slowdowns. Sales Tax is projected to decline by 2% in FY2024-25 and FY2025-26 then beginning to recover after that. Transient Occupancy Tax is projected to decline by 3% in FY2024-25 and decline by 2% in FY2025-26. Transient Occupancy Tax is a more volatile revenue source and therefore more subject to potential market changes.

This projection continues to assume that the VLF issue will not have a legislative fix and that the County does not identify a new dedicated revenue source for Fire protection. Other costs such as Salary and Benefits, Services and Supplies and groundwater, cyber security are all the same as the baseline projection.

**5-YEAR FORECASTS**  
**FY 2023-24-FY 2027-28**



This projection shows the potential impact of a mild recession with the impacts being felt in FY2024-25 and FY2025-26. The reason that this hypothetical recession's impacts are shown in FY2024-25 instead of FY2023-24 is that there is often a lag of several months, or nearly a year, for the effects of a recession to be reflected on county revenues. After that, the projection assumes a steady and slow recovery. Even with a mild recession the only two years the county General Fund would have expenses exceeding revenues are in FY2024-25 and FY2025-26. In both years the deficit is entirely due to the loss of VLF revenue. The two remaining years, FY2026-27 and FY2027-28 show a recovering and positive General Fund.

More mainstream economists are beginning to project a recession potentially in the coming year. Macroeconomic fundamentals are currently strong and there are not major bubbles in the United States economy. However, if there were an economic slowdown it would likely be a mild recession. Even when factoring in a mild recession where county revenues decline or grow slower, the General Fund is still resilient. The General Fund remains structurally sound and can accommodate a mild recession.

**Identified unmet needs:**

Throughout the year, the Board identifies unmet needs. These are included in the 5-Year Forecast so that the list can be reviewed and updated annually. Some of these priorities may

**5-YEAR FORECASTS**  
**FY 2023-24-FY 2027-28**

have potential revenue sources beyond the General Fund, which would be used to meet these ongoing funding needs.

- One-time funding needs
  - Homeless services
  - Affordable housing, including family farmworker housing
  - Americans with Disabilities Act Transition Plan implementation
    - Facilities improvements
    - Website accessibility
  - Cyber security
  - Capital Improvement Projects
    - Major maintenance of Napa County facilities
    - Culvert and bridge maintenance
    - Road maintenance and repairs
    - New County Administration Building
  - General Plan update
  - Preparing and Implementing Climate Action and Resiliency strategies
  - Fire Prevention and Water

**Conclusion:**

The General Fund is currently structurally sound. A cause for concern is the significant, but potentially short-term impact of losing the Vehicle License Fee. Besides this, the need to provide General Fund support to fund the Community Wildfire Protection Plan would make the General Fund less resilient and could over time begin to erode core county services. If the County did lose VLF revenues, and experience a mild recession, the county would need to use Assignment for Fiscal Uncertainty or make reductions to core county services or identify other short-term solutions.

County revenues have recovered from the pandemic. Inflationary pressures on employee Salary and Wages may grow faster than revenues in the coming years. It is, however, unlikely that County revenues would decline without similar declines in major County expenses. It remains imperative that staff continue constant vigilance in implementing the Board's budget policies and that all requests for use of discretionary revenue, especially for on-going uses, be analyzed and carefully considered. It is also imperative that one-time resources continue to be used to address priorities that protect future service delivery, such as paying down the pension liability and investing in major maintenance projects to prevent costly system failures and increasing costs in the future.



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

## MEMORANDUM

TO: Board of Supervisors  
FROM: David Morrison, Interim County Executive Officer  
DATE: March 14, 2023  
RE: **MID-YEAR FISCAL REVIEW - FISCAL YEAR 2022-23**

### Introduction

Part of the County's on-going fiscal monitoring process is a mid-year review of the County's fiscal status. Referencing actual revenue and expenditure activity from the first six months of the fiscal year, the County Executive Office (CEO) staff works with department staff to forecast revenues and expenditures through the end of the fiscal year. This review enables the County to identify and address any current-year budget concerns in a timely manner. This process also helps start the FY 2023-24 budget, in part by providing an estimate of the FY 2022-23 General Fund ending fund balance available for use in the FY 2023-24 budget process. Staff continually monitor revenue trends and evaluate the impact that existing or proposed expenditure increases will have on the fund balance now and into the future.

### General Fund Current Year Fiscal Status

Using the most current information available, the General Fund will likely end FY 2022-23 with an unassigned ending Fund Balance of approximately \$23 million which is \$18 million more than projected. This balance is reasonable and necessary for stability of operations during economic uncertainty.

Consistent with Board Policy, the estimates shown in the table do not reflect one-time revenues such as American Rescue Plan Act or Excess Educational Revenue Enhancement Fund (ERAF), of which the latter will be committed to the Capital Improvement Program for future projects as part of the year-end closing process by the Auditor Controller.

The below charts are rounded to the nearest one thousand dollars (\$1,000).



A Tradition of Stewardship  
A Commitment to Service

# County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

## GENERAL FUND BUDGET

<b>Resources</b>	<b>FY2022-23 Adjusted Budget</b>	<b>FY2022-23 Six Month Estimate</b>	<b>Difference</b>
Available Fund Balance	<b>76,469,000</b>	<b>76,469,000</b>	-
Discretionary Taxes	143,018,000	145,845,000	2,827,000
Departmental	103,370,000	102,983,000	(387,000)
<b>Total Revenue</b>	<b>246,388,000</b>	<b>248,828,000</b>	<b>2,440,000</b>
<b>Total Resources</b>	<b>246,388,000</b>	<b>248,828,000</b>	<b>2,440,000</b>
<b>Requirements</b>			
Expenditures	312,554,000	297,619,000	(14,935,000)
Contingency	4,827,000	63,000	(4,764,000)
<b>Total Expenditures</b>	<b>317,381,000</b>	<b>297,682,000</b>	<b>(19,699,000)</b>
Use of Fund Balance	-	4,208,000	4,208,000
<b>Total Requirements</b>	<b>317,381,000</b>	<b>301,890,000</b>	<b>(15,491,000)</b>
Projected Ending Fund Balance	<b>5,476,000</b>	<b>23,407,000</b>	<b>17,931,000</b>

General Fund tax revenues are projected to be approximately \$2.8 million more than the adjusted budget. The primary sources of General Fund Revenue are Property Tax, Transient Occupancy Tax, and Sales and Use Tax. The table below summarizes the budget versus estimate for these revenue sources. Sales and Use Tax trend information is analyzed at the state and local level by a consultant. The timing of the receipt of Property and Sales and Use Tax revenues means that the estimates are preliminary.



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

	<b>Adjusted Budget</b>	<b>Six Month Estimate</b>	<b>Difference</b>
<b>Property Tax</b>	\$114,600,000	\$116,470,000	\$1,870,000
<b>Transient Occupancy Tax</b>	14,000,000	14,000,000	-
<b>Sales and Use Tax</b>	<u>14,418,000</u>	<u>15,375,000</u>	<u>957,000</u>
	<b>\$143,018,000</b>	<b>\$145,845,000</b>	<b>\$2,827,000</b>

Napa County started FY 2022-23 with a contingency allocation of \$5 million per policy. Of this \$5 million, approximately \$3.5 million was transferred in the fall for MOU ratifications. Contingency account was then replenished by the same amount in December 2022. The appropriations were increased for approximately 70% of the MOUs' estimated costs because there was probability that the departments would absorb some of the additional expenses through vacancies. General Fund Expenditures are projected to be \$18 million less than the adjusted budget after approximately \$4.9 million in transfer of Contingency monies for the balance of salaries and benefits, equity pay increases, new positions, and other operating appropriations approved within this budget amendment proposal.

### **Budget Adjustments**

The below charts provide a description of the recommended budget adjustments that staff requests the Board approve today.





A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

### A. General Fund

- 1 Assessor's Office needs to fund a limited term mapping technician and extra help for the mapping and title team. Assessor's Office will pay for these costs with Available Fund Balance. The adjustments are as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$68,900	1000	1140000	48200	Revenue Transfer In
b. Increase	\$80,000	1000	1140000	51100	Salaries and Wages
c. Decrease	\$11,100	1000	1140000	52515	Maintenance Software
d. Increase	\$22,965	2400	1140050	56100	Transfers Out
e. Increase	\$45,935	2400	1140051	56100	Transfers Out
g. Decrease	\$22,965	2400	1140050	33100	Available Fund Balance
h. Decrease	\$45,935	2400	1140051	33100	Available Fund Balance

- 2 District Attorney experienced increased costs in Salary and Benefits due to MOU, equity, and new positions. District Attorney is recognizing the federal eSCARS Grant award and transferring for Sheriff, CWS, and increase ITS charges. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$130,000	1000	1300000	43890	FED - Other Funding
b. Increase	\$15,000	1000	1420000	49900	Intrafund Transfer In
c. Increase	\$5,000	1000	1320000	49900	Intrafund Transfer In
d. Increase	\$5,000	2000	2000400	46900	Interfund Revenue
e. Increase	\$120,000	4200	4200000	46800	Charges for Services
f. Decrease	\$390,000	1000	1059000	58100	Appropriation for Contingency
g. Decrease	\$30,000	1000	1300000	52490	Other Professional Services
h. Increase	\$405,000	1000	1300000	51100	Salaries and Wages
i. Increase	\$15,000	1000	1300000	57900	Intrafund Transfer Out
j. Increase	\$5,000	1000	1300000	57900	Intrafund Expenditures
k. Increase	\$5,000	1000	1300000	56100	Interfund Expenditures
l. Increase	\$120,000	1000	1300000	52130	IT Services



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

- 3 Public Defender experienced increased costs in Salary and Benefits due to MOU and equity increases. This is funded from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$25,000	1000	1320000	51100	Salary and Benefits
b. Decrease	\$25,000	1000	1059000	58100	Appropriation for Contingency

- 4 Conflict Public Defender experienced an increase in legal services to cover the cost of investigative, expert and court appointed attorney services. This cost has increased the Net County Cost and is coming from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$350,000	1000	1340000	52140	Legal Services
b. Decrease	\$350,000	1000	1059000	58100	Appropriation for Contingency

- 5 Sheriff Office experienced an increase in Salary and Wages costs due to overtime and MOU increases. This cost has increased the Net County Cost and is coming from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Decrease	\$1,257,962	1000	1059000	58100	Appropriation for Contingency
b. Decrease	\$76,573	1000	1360000	53620	Law Enforcement Supplies
c. Increase	\$9,573	1000	1360000	55400	Equipment
d. Increase	\$1,181,962	1000	1360000	51100	Salaries and Wages
e. Decrease	\$12,500	1000	1361000	53620	Law Enforcement Supplies
f. Increase	\$12,500	1000	1361000	51100	Salaries and Wages
i. Increase	\$93,000	1000	1362000	51100	Salaries and Wages
k. Increase	\$50,000	1000	1363000	51100	Salaries and Wages

- 6 Corrections Law Enforcement Operations (1400001) experienced an increase in Salary and Benefits due to MOU increases. Corrections Culinary/Laundry (1400002) experienced an increase in inmate meals. Corrections Maintenance (1400003) experienced an increase in Salary and Benefits due to MOU increases. Corrections is increasing appropriation to cover additional labor and sales tax expenses for last



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

year's video system replacement, funded by reductions in Law Enforcement Supplies and savings in operating costs. The adjustment is as follows:

	Amount	Fund	Subdivision	Program	Account	
a. Increase	\$400,000	1000	1400001		51100	Salary and Wages
b. Decrease	\$400,000	1000	1400000		51100	Salary and Wages
c. Increase	\$19,000	1000	1400002		53505	SCP Client Meal Expense
d. Decrease	\$19,000	1000	1400004		52220	Medical/Laboratory Services
e. Increase	\$42,000	1000	1400002		53305	Household Expense
f. Decrease	\$42,000	1000	1400001		52410	Electronic Monitoring
g. Increase	\$25,000	1000	1400002		51100	Salary and Wages
h. Decrease	\$25,000	1000	1400000		51100	Salary and Wages
i. Increase	\$80,000	1000	1400003		51100	Salary and Wages
j. Decrease	\$80,000	1000	1400000		51100	Salary and Wages
k. Increase	\$31,265	3000	3000505	22037	52490	Other Professional Services
l. Decrease	\$23,466	1000	1400001		52490	Other Professional Services
m. Decrease	\$7,799	1000	1400001		53620	Law Enforcement Supplies
n. Increase	\$31,265	3000	3000505	22037	48200	Transfer In
o. Increase	\$31,265	1000	1400001		56100	Transfer Out

- 7 Probation (1421000) experienced an increase in Salary and Benefits costs due to MOU increases. This cost is increasing their Net County Cost and a portion is coming from Appropriation for Contingency. Probation Administration (1420000) is receiving a transfer in from non-operating special revenue fund Title IVE (1422050). The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$60,000	1000	1420000	48200	Transfer In
b. Increase	\$60,000	2480	1422050	43200	State Public Assistance Admin
c. Increase	\$710,000	1000	1421000	51100	Salary and Wages
d. Decrease	\$610,000	1000	1420000	51100	Salary and Wages
e. Decrease	\$100,000	1000	1059000	58100	Appropriation for Contingency
f. Increase	\$60,000	2480	1422050	56100	Transfer Out



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

- 8 UC Cooperative Extension experienced increase costs in Salary and Benefits due to unbudgeted equity adjustments and COLA increases. This cost has increased their Net County Cost and is coming from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$16,500	1000	1800000	51100	Salaries and Wages
b. Decrease	\$16,500	1000	1059000	58100	Appropriation for Contingency

- 9 Agricultural Commissioner/Sealer of Weights and Measures department is anticipating exceeding their expenses by \$108,000 offset by a corresponding increase in revenue. Staff is recommending increasing the contribution to the noxious weed removal program which is a multi-year partnership with the Parks and Open Space District and the Resource and Conservation District and increasing the contribution to the State Agriculture Unclaimed Gas Tax. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$18,000	1000	1600000	43310	State - Ag Dept of Pesticide Reg
b. Increase	\$90,000	1000	1600000	43300	State - Agriculture
c. Increase	\$18,000	1000	1600000	54800	Contributions
d. Increase	\$90,000	1000	1600000	51110	Extra Help

- 10 Public Works (Fund 1000, Orgs 1220000, 1220001, and 1220004 requires the following adjustments to increase appropriations by \$287,400 in Benefits to cover the increased rates offset partially by a reduction in Other Professional Services by \$38,900 and increased revenue in Charges for Services by \$244,200. Remaining balance of \$4,300 will be offset by a reduction in the General Fund Appropriations for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$244,200	1000	1220000	46800	Charges for Services
b. Decrease	\$17,800	1000	1220000	52490	Other Professional Services
c. Increase	\$122,400	1000	1220000	51400	Employee Insurance - Premiums
d. Increase	\$36,000	1000	1220000	51600	Retirement
e. Decrease	\$21,100	1000	1220001	52490	Other Professional Services
f. Increase	\$104,200	1000	1220001	51400	Employee Insurance - Premiums
g. Increase	\$24,800	1000	1220004	51400	Employee Insurance - Premiums
h. Decrease	\$4,300	1000	1059000	58100	Appropriations for Contingency



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

- 11 Planning Building and Environmental Services (Fund 1000, Orgs 1702000, 1703000, and 1750000).  
Org 1702000 - PBES Environmental Health: Increase in appropriations requested for account 51100 (Salaries & Wages) as well as account 52131 (ITS-Communications). This increase is necessary due to benefit increases associated with COLA as well as a new FTE that was approved in September 2022. In addition, the internal service charge for both ITS-Communications as well as ITS-Records Management for PBES was applied only to the Planning Division (17000). This charge was manually allocated among the various PBES subdivisions.

Org 1703000 - PBES Local Enforcement Agency: Increase in appropriations requested for account 51100 (Salaries & Wages). This increase is necessary due to benefit increases associated with COLA as well as a new FTE that was approved in September 2022.

Org 1750000 - PBES Parks: Increase in appropriations requested for account 51100 (Salaries & Wages) due to benefit increases associated with the COLA. This increase in appropriations will be offset by an increase in revenue account 46800 (Charges for Services) as all expenditures within this division are charged to the Napa County Parks & Open Space District. Staff recommends using Appropriation for Contingency to cover the adjustments.

Planning, Building, and Environmental Services (Fund 2140, Org 2140000): Increase in appropriations for account 52490 (Other Professional Services). This increase is necessary as the Building division experiences continued staffing shortages and is relying on the use of outside contract help for plan review services. In addition, there is a remodel plan underway what will increase these appropriations. This increase will be offset by a reduction of the Building Fund balance in fund 2140.

	Amount	Fund	Subdivision	Account	
a. Increase	\$28,000	1000	1750000	51100	Salaries & Wages
b. Increase	\$90,000	1000	1702000	51100	Salaries & Wages
c. Increase	\$10,000	1000	1702000	52131	ITS - Communications
d. Increase	\$88,000	1000	1703000	51100	Salaries & Wages
e. Decrease	\$216,000	1000	1059000	58100	Appropriation for Contingency
f. Increase	\$330,000	2140	2140000	52490	Other Professional Svcs
g. Decrease	\$330,000	2140	2140000	33100	Available Fund Balance



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

- 12 Board of Supervisors experienced an increase in Salaries and Wages due to an increase in benefits. This cost has increased the Net County Cost and is coming from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$20,000	1000	1010000	51100	Salaries and Wages
b. Decrease	\$20,000	1000	1059000	58100	Appropriation for Contingency

- 13 Recognize state earmarks for processing community grants.

	Amount	Fund	Subdivision	Account	
a. Increase	\$3,000,000	1000	1052000	43790	State Revenues
b. Increase	\$3,000,000	1000	1052000	54805	Community Grants
e. Increase	\$6,000,000	2100	2100001	43790	Fire State Revenues
f. Increase	\$6,000,000	2100	2100001	54805	Fire Community Grants
g. Decrease	\$600,000	2100	2100001	48210	Fire Transfer in General Fund
h. Decrease	\$600,000	1000	1050000	56100	General Fund Transfer out

- 14 Community Outreach experienced an increase in Salaries and Wages due to benefit increases associated with the COLA. This cost has increased the Net County Cost and is coming from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$3,000	1000	1052002	51100	Salaries and Wages
b. Decrease	\$3,000	1000	1059000	58100	Appropriation for Contingency

- 15 Auditor Controller experienced an increase in Salaries and Wages due to an increase in Extra Help for the State Property Tax Audit and property tax assignments. This cost has increased the Net County Cost and is coming from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$15,000	1000	1100000	51110	Extra Help
b. Decrease	\$15,000	1000	1059000	58100	Appropriation for Contingency



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

County Counsel experienced an increase in Legal Services related to litigation of two code enforcement cases. This cost has increased the Net County Cost and is coming from Appropriation for Contingency. The adjustment is as follows:

	Amount	Fund	Subdivision	Account	
a. Increase	\$285,000	1000	1200000	52140	Legal Services
b. Decrease	\$285,000	1000	1059000	58100	Appropriation for Contingency

- 17 Human Resources experienced an increase in Vacation Payout due to an unforeseen retirement and Training Services to enhance countywide trainings to supervisory and management staff. The adjustments are as follows from available fund balance.

	Amount	Fund	Subdivision	Account	
a. Increase	\$24,000	1000	1022000	51130	Vacation Payout
b. Increase	\$150,500	1000	1022000	52305	Training Services
c. Increase	\$174,500	1000	1022000	49900	Intrafund Transfer In
d. Increase	\$174,500	1000	1050000	57900	Intrafund Transfer Out

- 18 ARPA Child Care Infrastructure Grants were programmed in CEO Org (1000-1020000) and should be programmed in Non-Departmental Org (1000-1050000). Transfer out remains status quo.

	Amount	Fund	Org	Proj	Account	
a. Decrease	\$3,000,000	1000	1020000		48200	CEO-Transfer In
b. Decrease	\$3,000,000	1000	1020000		54805	CEO-Community Grants
c. Increase	\$3,000,000	1000	1050000		48200	Non-Dept-Transfer In
d. Increase	\$3,000,000	1000	1050000		54805	Non-Dept-Community Grants

### Other Funds:

- 1 Fire requires a budget adjustment from Available Fund Balance due to an unexpected expense in Greenwood Ranch (2100027).

	Amount	Fund	Subdivision	Account	
a. Increase	\$10,000	2100	2100027	49900	Intrafund Transfer In
b. Increase	\$10,000	2100	2100000	57900	Intrafund Transfer Out
c. Increase	\$10,000	2100	2100027	53600	Fire Supplies
d. Decrease	\$10,000	2100	2100000	33100	Available Fund Balance





A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

- 2 Roads CIP (Fund 2040, Org 2040500, Project 20038): Closing Project 20038. Local Road Safety Plan: Napa County applied for a grant to Caltrans in November 2019, to prepare a Local Roadway Safety Plan (LRSP). Napa County received a grant allocation from Caltrans, awarding the maximum amount of \$72,000. Napa County was required to match 10% (\$8,000) of the cost to prepare the LRSP, which was estimated to be \$80,000. Entire project cost of \$80,000 was up fronted from the Roads Operations' budget while it waited for reimbursement from the grant. The project is now complete, and the costs of the project have been reconciled. Staff is requesting an increase in budget appropriations of \$65,746 in the project budget, partially offset by decrease in construction services account and rest from the available fund balance, in order to return the funds back to the Roads Operations budget. The adjustment is as follows:

	Amount	Fund	Org	Proj	Account	
a. Increase	\$65,746	2040	2040000		49900	Intrafund Transfers-In
b. Decrease	\$1,651	2040	2040500	20038	52360	Construction Svcs
c. Decrease	\$64,095	2040	2040500	20038	33100	Use of Fund Balance
d. Increase	\$65,746	2040	2040500	20038	57900	Intrafund Transfers Out

- 3 Roads CIP (Fund 2040, Org 2040500, Project S7304): Mt. Veeder Rd. – MPM 5.1: During heavy rains in 2017, the embankment supporting roughly 400 feet of roadway near mile post marker (MPM) 5.1 of Mt. Veeder Road slid downslope. Funding came from the Measure T Non-Operating Special Revenue Fund. The project is now complete, and the costs of the project have been reconciled. Staff is requesting additional \$18,716 from Measure T Non-Operating Special Revenue Fund to zero out the project. There is currently a negative fund balance for this project since some invoices received and processed after the CIP roll over was carried into FY22-23; the budget was subsequently not reduced after the rollover occurred. The adjustment is as follows:

	Amount	Fund	Org	Proj	Account	
a. Increase	\$18,716	2040	2040500	S7304	48200	Transfers-In
b. Decrease	\$18,716	2440	1220053		33100	Use of Fund Balance
c. Increase	\$18,716	2440	1220053		56100	Transfers Out
d. Decrease	\$47,147	2040	2040500	S7304	52360	Construction Services





A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

Roads Operations (Fund 2040, Org 2040000): The current revised budget does not include the cost increase in Engineering and Administrative Services due to salary increases along with the increase in Employee Insurance Premiums from the negotiated MOU. It also does not include the recent overtime hours and extra emergency tree work needed because of the Winter 2023 Storms. During Budget approval of Budget 2022/23 the original amount of \$1.7M budgeted to Fleet charges was shorted by \$300K due to a system error. Therefore, budget adjustment is requested to cover those costs. Total of \$58,296 increase to Salary and Benefits and increase in Services and Supplies of \$487,677. There is an offset with the decrease in appropriation in Consulting services of \$94,000, Construction Services of \$43,500 and increase in revenues by \$59,332. We are also requesting General fund to cover the \$58,296 in Salary and Benefits. Therefore, overall net decrease to fund balance is \$290,845 to cover increase in costs. The adjustment is as follows:

	Amount	Fund	Org	Proj	Account
a. Increase	\$50,000	2040	2040000		45100 Interest
b. Increase	\$9,332	2040	2040000		46800 Charges for Services
c. Increase	\$58,296	2040	2040000		48200 Transfers-In
d. Decrease	\$58,296	1000	1059000		58100 Appropriations for Contingency
e. Increase	\$58,296	1000	1050000		56100 Transfers Out
f. Increase	\$29,148	2040	2040000		51115 Employee Overtime
					Employee Insurance -
g. Increase	\$29,148	2040	2040000		51400 Premiums
h. Increase	\$159,025	2040	2040000		52145 Engineer Services
i. Decrease	\$94,000	2040	2040000		52310 Consulting Services
j. Increase	\$151,701	2040	2040000		52340 Landscaping Services
k. Decrease	\$43,500	2040	2040000		52360 Construction Services
l. Increase	\$6,515	2040	2040000		52505 Maint - Bldg & Improvements
m. Increase	\$20,436	2040	2040000		52525 Maint - Infrastructure/ Land
n. Increase	\$150,000	2040	2040000		52906 Fleet Charges
o. Decrease	\$290,845	2040	2040000		33100 Fund Balance

- 5 Property Management - Maintenance (Fund 4300, Org 4300000): The current PM- Maintenance operations budget used \$224,000 of its fund balance to cover the 7% cost of living increases effective 10/1/22, plus the increase in benefits mainly insurance premiums and retirement cost, which was not part of the adopted budget in June 2022. Consequently, an increase in appropriation is requested to cover the increase in labor and utilities based on year-to-date actuals, primarily electricity, HVAC software upgrade and communication services. Using the increase in revenue, appropriation for contingency, decrease in equipment due to decision to forgo purchase of a small tractor, and available fund balance to cover the increase in services and supplies. The adjustment is as follows:



A Tradition of Stewardship  
A Commitment to Service

# County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

	Amount	Fund	Org	Proj	Account	
a. Increase	\$46,216	4300	4300000		45300	Rent Building/ Land
b. Decrease	\$50,000	4300	4300000		55400	Equipment
c. Decrease	\$35,495	4300	4300000		58100	Appropriation for Contingency
d. Increase	\$119,000	4300	4300000		55600	Intangible
e. Increase	\$135,624	4300	4300000		53205	Utilities - Electric
f. Increase	\$16,995	4300	4300000		52800	Communications
g. Increase	\$88,458	4300	4300000		52505	Maint - Bldg & Improvements
h. Increase	\$96,520	4300	4300000		52145	Engineering Services
i. Decrease	\$324,886	4300	4300000		33100	Fund Balance

- 6 Property Management - Custodial (Fund 4300/Org 4300005): The current PM- Custodial adopted budget from June 2022, did not include the cost of living increase effective 10/1/22. Therefore, an increase in appropriation is requested to cover the increase in Salaries and Wages, Insurance Premiums, and Retirement costs. Using appropriation for contingency, plus available fund balance to cover the increase in Salaries and Benefits. The adjustment is as follows:

	Amount	Fund	Org	Proj	Account	
a. Decrease	\$72,300	4300	4300005		58100	Appropriation for Contingency
b. Increase	\$72,300	4300	4300005		51100	Salaries & Wages
c. Increase	\$37,787	4300	4300005		51400	Employee Insurance
d. Increase	\$57,621	4300	4300005		51600	Retirement
e. Decrease	\$95,408	4300	4300005		33100	Fund Balance

- 7 5th Street Parking Garage - (Fund 5020/Org 5020000): Projecting the 5th Street Parking Garage budget to have a negative fund balance at FY22/23 year-end. The adopted budget from June 2022, did not include the cost of living increase approved on 10/1/22. Therefore, E&A also known as the Engineer Services account requires a significant appropriation increase of \$14,000, to cover current salaries and benefits costs. There is also an increase of \$10,000 in the Maintenance Buildings and Improvements account, which includes weighted labor charges and contracted services that have had an increase from budget adoption to the present. Staff recommends General Fund funding to offset the increase in expenses. The adjustment is as follows:

Amount	Fund	Org	Proj	Account
--------	------	-----	------	---------



A Tradition of Stewardship  
A Commitment to Service

# County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

a. Increase	\$24,000	5020	5020000	48200	Transfers-In
b. Increase	\$14,000	5020	5020000	52145	Engineer Services
c. Increase	\$10,000	5020	5020000	52510	Maint - B&I
d. Decrease	\$24,000	1000	1059000	58100	Appropriation for Contingency
e. Increase	\$24,000	1000	1050000	56100	Transfers Out

- 8 Animal Shelter – (Fund 5040/Org 5040000 & 5040001): The Animal Shelter Operation ORG has an appropriation increase of \$6,622 in Household Expenses, and an increase of \$18,120 in Veterinary Supplies. The increase is attributed to the increase in animal population. Use of appropriation for contingency will be used to offset the increase in expenses. The Operations Other Grants revenue account will be decreased by \$10,000 to increase the Other Grants revenue account under Spay and Neuter ORG. The increase in revenue will cover the \$10,000 appropriation increase to the Veterinary Services account. The reason for the increase in Veterinary Services is to provide spay and neuter services to a significant number of cats. The adjustment is as follows:

	Amount	Fund	Org	Proj	Account
a. Decrease	\$10,000	5040	5040000		47150 Other Grants
b. Increase	\$10,000	5040	5040001		47150 Other Grants
c. Decrease	\$24,742	5040	5040000		58100 Appropriation for Contingency
d. Increase	\$6,622	5040	5040000		53305 Household Expense
e. Increase	\$18,120	5040	5040000		53610 Veterinary Supplies
f. Increase	\$10,000	5040	5040001		52230 Veterinary Services

- 9 Napa Valley Tourism Improvement District-Countywide has an unbudgeted Special Assessments revenue increase. The revenue increase is offset by an increase in expenditures in Other Professional Services. The adjustment is as follows:

	Amount	Fund	Org	Proj	Account
a. Increase	\$3,492,000	2830	2830000		46700 Special Assessments
b. Increase	\$3,492,000	2830	2830000		52490 Other Professional Services

- 10 Napa County Library used Available Fund Balance in October 2022 recorded to main subdivision. The funds received are being recognized in Transfer-In to increase appropriations in Salaries and Wages in other subdivisions.

Amount	Fund	Org	Proj	Account
--------	------	-----	------	---------



A Tradition of Stewardship  
A Commitment to Service

# County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

a.	Increase	\$40,000	2020	2020003	49900	Intrafund Transfers-In
b.	Increase	\$40,000	2020	2020005	49900	Intrafund Transfers-In
c.	Increase	\$80,000	2020	2020000	57900	Intrafund Transfers Out
d.	Increase	\$40,000	2020	2020003	51100	Salaries and Wages
e.	Increase	\$40,000	2020	2020005	51100	Salaries and Wages
f.	Decrease	\$80,000	2020	2020000	51100	Salaries and Wages

- 11 HHSA (1) Increases Salaries and Wages in 20006-00 and 20005-00 for unbudgeted COLA's (2) increase Support and Care of Persons in 20006-00 and 20005-00 for increased program costs (3) Increase Interfund Expenditures for increased CSOA staff support; offset by (1) decreases 20001-00 in Salaries and Wages for excess Salary Savings (2) decrease Support and Care of Persons in 20004-00 for decrease in program costs.

		Amount	Fund	Org	Proj	Account	
a.	Increase	\$575,000	2000	2000600		51100	Salaries and Wages
b.	Increase	\$525,000	2000	2000600		53500	Support and Care of Persons
c.	Increase	\$340,000	2000	2000500		51100	Salaries and Wages
d.	Increase	\$210,000	2000	2000500		53500	Support and Care of Persons
e.	Decrease	\$1,100,000	2000	2000100		51100	Salaries and Wages
f.	Decrease	\$550,000	2000	2000400		53500	Support and Care of Persons

- 12 HHSA Increase State - Realignment 2011 for unbudgeted growth payments with an increase in appropriation in the transfer out. No additional expense authority is needed.

		Amount	Fund	Org	Proj	Account	
a.	Increase	\$678,128	2000	2000200		48241	Transfer In 2011 Realignment
b.	Increase	\$119,669	2000	2000300		48241	Transfer In 2011 Realignment
c.	Increase	\$797,797	2500	2000281		43118	State - Realignment 2011
d.	Increase	\$797,797	2500	2000281		56100	Transfer Out

- 13 HHSA Increase 20002-51 Transfer-Out for increased MHSA needs using available fund balance. No additional expense authority is needed.

Amount	Fund	Org	Proj	Account
--------	------	-----	------	---------



A Tradition of Stewardship  
A Commitment to Service

# County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

a. Increase	\$1,462,555	2000	2000203	48200	Transfer In
b. Increase	\$50,000	2000	2000200	48200	Transfer In
c. Increase	\$1,512,555	2460	2000251	56100	Transfer Out
d. Decrease	\$1,512,555	2460	2000251	33100	Available Fund Balance

- 14 HHSA Increase 20001-53 Transfer-Out for increased Vital and Health Statistics fund needs using available fund balance and increases in Charges for Services. No additional expense authority is needed.

	Amount	Fund	Org	Proj	Account
a. Increase	\$7,000	2000	2000100		48200 Transfer In
b. Increase	\$7,000	2460	2000153		56100 Transfer Out
c. Decrease	\$3,250	2460	2000153		33100 Available Fund Balance
d. Increase	\$3,750	2460	2000153		46800 Charges for Services

- 15 HHSA Increase 20005-50 Transfer-Out for increased Indigent Burial needs using available fund balance. No additional expense authority is needed.

	Amount	Fund	Org	Proj	Account
a. Increase	\$4,500	2000	2000500		48200 Transfer In
b. Increase	\$4,500	2480	2000550		56100 Transfer Out
c. Decrease	\$4,500	2480	2000550		33100 Available Fund Balance

- 16 Deferred Compensation Board Increase Interfund Expenditures to reimburse Auditor Controller and Human Resources staff for implementation of MOU changes from Available Fund Balance and recognize reduction in program revenue.

	Amount	Fund	Org	Proj	Account
a. Increase	\$15,000	1000	1100000		46900 Interfund Revenue
b. Increase	\$5,000	1000	1022000		46900 Interfund Revenue
c. Decrease	\$20,000	2190	2190000		45200 Dividends/Rebates
d. Increase	\$20,000	2190	2190000		54900 Interfund Expenditures
e. Decrease	\$20,000	2190	2190000		33100 Available Fund Balance



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

Information Technology Services: The total adjustment across Information Technology Services (ITS), Records Management, and Communications is \$2.88 million. An adjustment totaling \$429,000 across all ITS orgs is for Salaries and Wages due to the unbudgeted union MOU that was negotiated, COLA and equity adjustments that took effect this fiscal year. Since the Department no longer has excess fund balance to offset the ITS, Records, and Communications' allocation costs to departments, most of the requested adjustment will go to Services and Supplies to cover increased operational costs due to several factors, including inflationary increases in the costs of server and network equipment, technology subscriptions, and unbudgeted agreements/ subscriptions that were not included in the previous year's allocations. Two additional adjustments are a contribution to fund crucial Cybersecurity initiatives as noted in the County's annual five-year forecast, and a phase of the radio encryption initiative (a separate Board item is on this agenda to establish the capital assets). This is to ensure County compliance in response to the California Law Enforcement Telecommunications System (CLETS) unfunded mandate. Due to the department's three internal service fund allocations being built out nearly a year in advance, there were several unbudgeted expenses that were incurred that while unbudgeted, are crucial to the department's operation to ensure business continuity of County departments and essential needs to the security of the County's servers, network, and overall infrastructure. As the County's dependency on technology grows year over year, the department anticipates seeing increased allocation costs that are reflective of the overall costs of the industry. Staff recommends the following adjustments:

	Amount	Fund	Org	Proj	Account	
a. Increase	\$120,000	4200	4200000		48200	Transfers In
b. Increase	\$100,000	4200	4200001		48200	Transfers In
c. Increase	\$1,680,000	4200	4200002		48200	Transfers In
d. Increase	\$135,000	4200	4200011		48200	Transfers In
e. Increase	\$215,000	4200	4200012		48200	Transfers In
f. Increase	\$630,000	4200	4200013		48200	Transfers In
g. Increase	\$65,000	4200	4200000		51100	Salaries and Wages
h. Increase	\$55,000	4200	4200000		52490	Other Professional Services
i. Increase	\$100,000	4200	4200001		51100	Salaries and Wages
j. Increase	\$150,000	4200	4200002		51100	Salaries and Wages
k. Increase	\$830,000	4200	4200002		52490	Other Professional Services
l. Increase	\$700,000	4200	4200002		52515	Maintenance - Software
m. Increase	\$32,000	4200	4200011		51100	Salaries and Wages
n. Increase	\$103,000	4200	4200011		52310	Consulting Services
o. Increase	\$12,000	4200	4200012		51100	Salaries and Wages
p. Increase	\$118,000	4200	4200012		52310	Consulting Services
q. Increase	\$85,000	4200	4200012		52515	Maintenance - Software
r. Increase	\$70,000	4200	4200013		51100	Salaries and Wages
s. Increase	\$245,000	4200	4200013		52490	Other Professional Services



A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

t. Increase	\$315,000	4200	4200013	55400	Equipment
u. Decrease	\$1,100,000	1000	1059000	58100	Appropriations for Contingency
v. Decrease	\$1,780,000	1000	1050000	33100	Available Fund Balance
w. Increase	\$2,880,000	1000	1050000	56100	Transfers Out

- 18 HHSA Increase 27000-00 Interfund Expenditures for increased staff support expense in Comprehensive Services for Older Adults offset by an increase in State revenue. No additional expense authority is requested.

	Amount	Fund	Org	Proj	Account
a. Increase	\$20,000	2000	2000500		46900 Interfund Revenues
b. Increase	\$20,000	2700	2700000		43200 ST Public Assistance Admin
c. Increase	\$20,000	2700	2700000		54900 Interfund Expenditures

- 19 HHSA Increase 20001-55 Transfer Out for increased Hospital Preparedness Program needs and increased State revenue due to remaining allocation carry forward. No additional expense authority is requested.

	Amount	Fund	Org	Proj	Account
a. Increase	\$52,313	2000	2000100		48200 Transfer In
b. Increase	\$52,313	2460	2000155		43290 ST Health Admin
c. Increase	\$52,313	2460	2000155		56100 Transfer Out

- 20 Airport - Operations – (Fund 5010/Org 5010000): The current airport adopted budget does not include sufficient appropriations to cover the increase in costs for various services and supplies accounts to accommodate expenses associated with the Airport Road redevelopment project, E&A charges, a new contract for the Sewer Realignment project, and general increases to insurance and utilities. Additional appropriation is needed to cover these expenses.

	Amount	Fund	Org	Proj	Account
a. Decrease	\$2,000	5010	5010000		42690 Permits Other/ Application Fees
b. Increase	\$154,721	5010	5010000		45300 Rent - Building/ Land
c. Increase	\$197,500	5010	5010000		45350 Rent - Landing Fees
d. Increase	\$110,000	5010	5010000		45360 Rent - Hangers
e. Increase	\$52,750	5010	5010000		45400 Parking Fees
f. Increase	\$98,993	5010	5010000		46245 Fuel Flowage Fees





A Tradition of Stewardship  
A Commitment to Service

## County Executive Office

1195 Third Street  
Suite 310  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

g. Decrease	\$148,000	5010	5010000	43890	FED Other Funding
h. Increase	\$144,112	5010	5010000	52145	Engineer Svcs
i. Increase	\$4,614	5010	5010000	52310	Consulting Svcs
j. Increase	\$3,000	5010	5010000	52340	Landscape Svcs
k. Increase	\$27,500	5010	5010000	52705	Insurance - Premiums
l. Increase	\$5,800	5010	5010000	53105	Office Furniture
m. Increase	\$3,300	5010	5010000	53220	Utilities - Water
n. Increase	\$3,300	5010	5010000	53250	Fuel
					Computer Equipment/
o. Increase	\$8,000	5010	5010000	53410	Accessories





A Tradition of Stewardship  
A Commitment to Service

**County Executive Office**

1195 Third Street  
Suite 310  
Napa, CA 94559  
www.countyofnapa.org

Main: (707) 253-4421  
Fax: (707) 253-4176

**David Morrison**  
Interim County Executive Officer

## MEMORANDUM

To:	Board of Supervisors	From:	Daniel Sanchez, Senior Management Analyst
Date:	13 March 2023	Re:	11 D – Five-year budget forecast and other fiscal reports

Memo Item #13 To:

13. Recognize state earmarks for community grants and reduce general fund transfers to Fire Fund.

	Amount	Fund	Subdivision	Project	Account	
a. Increase	\$1,000,000	2100	2100001		43790	Fire-State Revenues
b. Increase	\$4,000,000	1000	1052000		43790	Central Services-ST Revenues
d. Increase	\$2,000,000	2040	2040500	22036	43790	Roads CIP-ST Revenues
e. Increase	\$2,000,000	3000	3000000		43790	ACO-ST Revenues
f. Decrease	\$600,000	2100	2100001		48210	Fire Transfer in General Fund
						Central Services-Community
g. Increase	\$4,000,000	1000	1052000		54805	Grants
h. Increase	\$1,000,000	2100	2100001		54805	Fire-Community Grants
i. Increase	\$2,000,000	2040	2040500	22036	52360	Construction Services
j. Increase	\$2,000,000	3000	3000000		33100	Available Fund Balance
k. Decrease	\$600,000	1000	1050000		56100	General Fund-Transfer Out





# 5-Year Forecast March 14, 2023

A Tradition of Stewardship  
A Commitment to Service



# 5-Year General Fund Forecast

- A projection using FY2022-23 adopted budget
- Provides for improved decision-making to maintain fiscal discipline and delivering essential services
  - Includes known issues
  - Uses high-level estimates
  - Is not a preliminary budget

Conservative: assumes high expenses and low revenues



A Tradition of Stewardship  
A Commitment to Service

# Economic Context

- Inflation high, but moderating
- Federal Reserve has increased interest rates, negatively impacting financial markets and state revenues
- State revenue below projections
- Napa population declining
- Labor force participation still low
- Median home prices expected to decline



A Tradition of Stewardship  
A Commitment to Service

# Baseline Forecast

- Existing levels of service
- Capacity to address some of the Board's highest priorities
- Assumes most outside resources (state and federal) will increase consistently
- Assumes replacement jail operating costs will begin Q4 FY2023-24
- Assumes General Fund will fund fire prevention costs



A Tradition of Stewardship  
A Commitment to Service

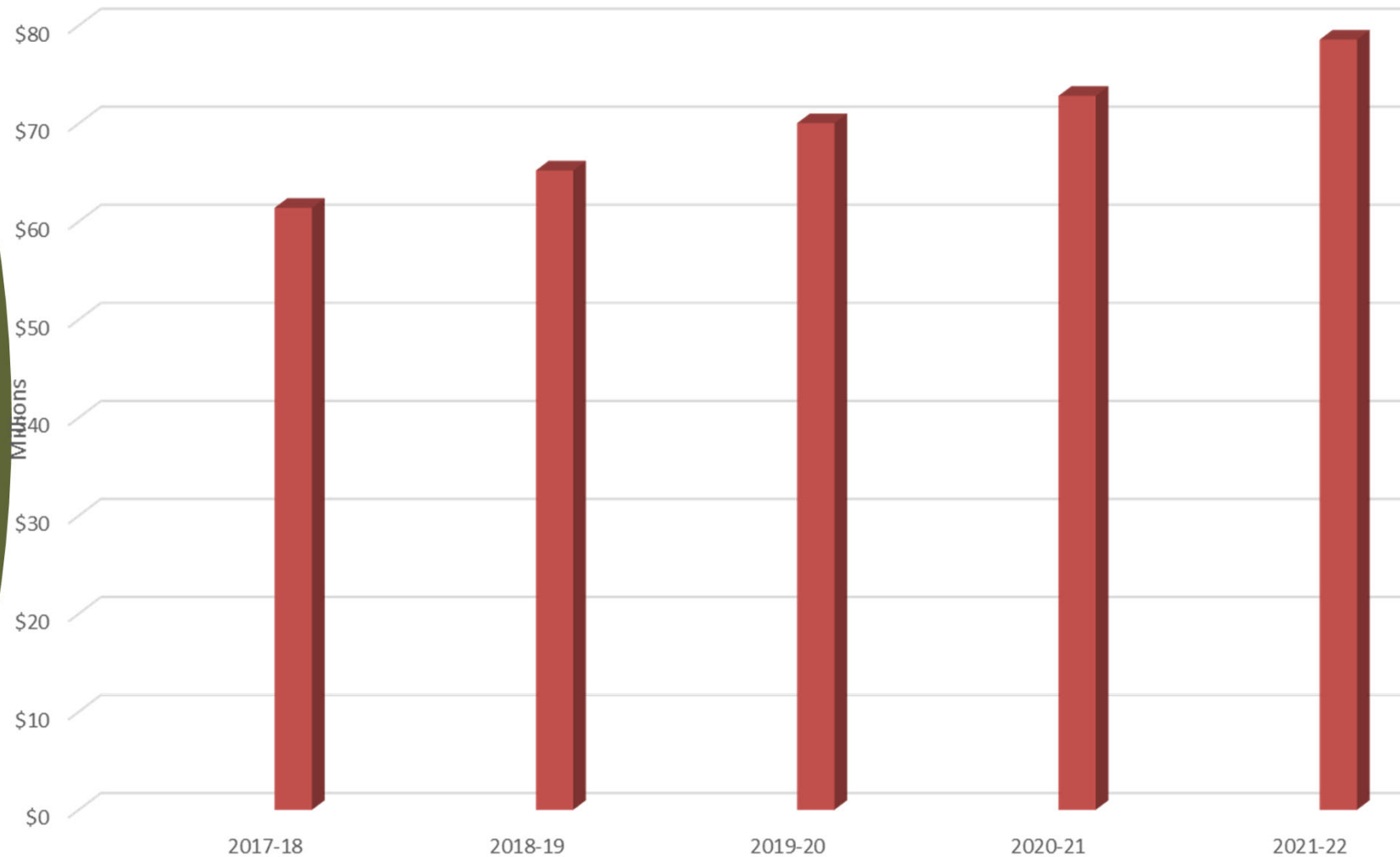
# Revenue Projections

- Property Tax annual growth
  - Secured: 4%
  - Supplemental: 4%
- Sales tax: based on Consultant's forecast
- Transient Occupancy Tax (TOT): 2% growth
- Excess ERAF designated for one-time uses including capital investment



A Tradition of Stewardship  
A Commitment to Service

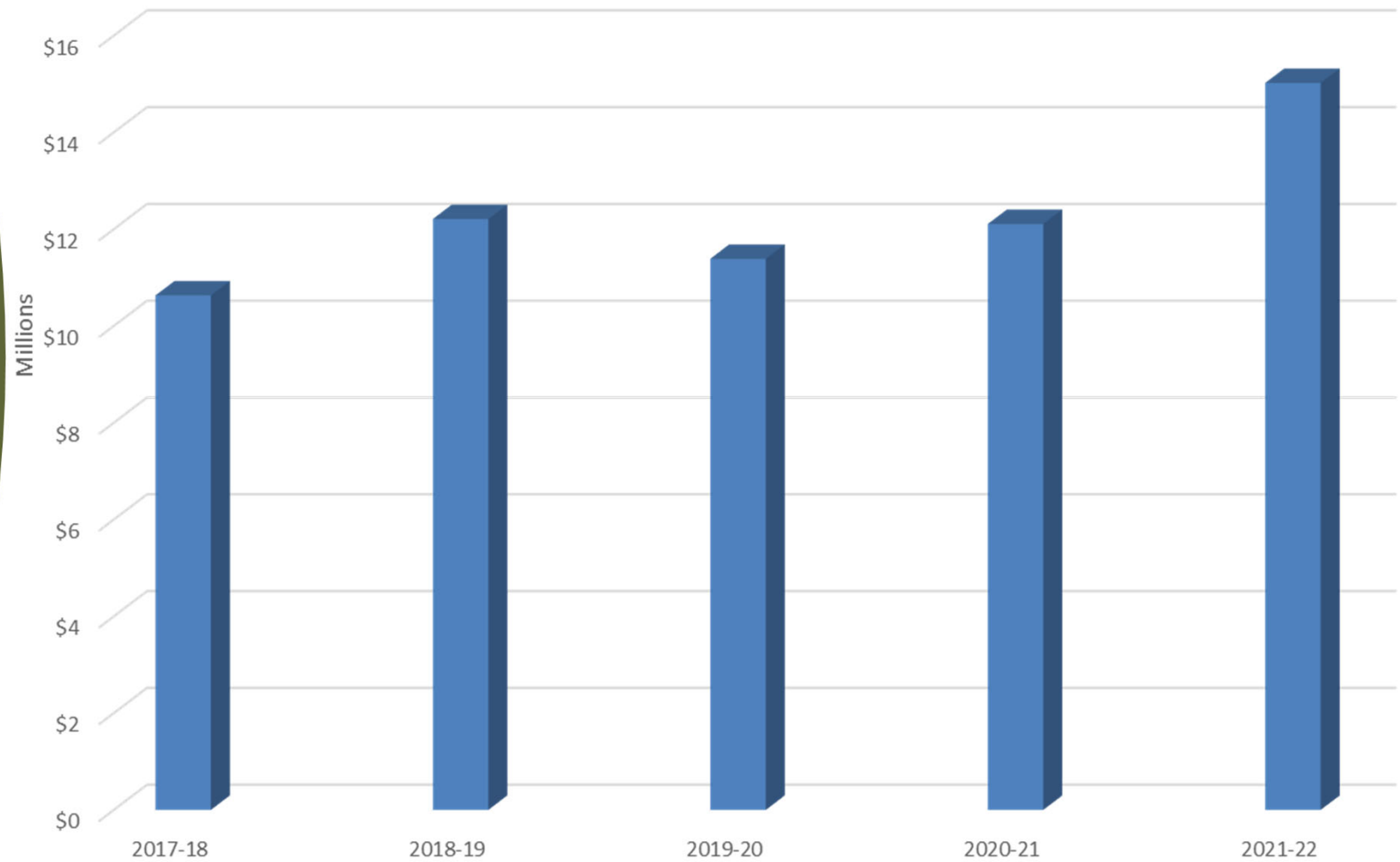
# Property Tax—Secured Actuals



# Sales Tax Actuals



A Tradition of Stewardship  
A Commitment to Service

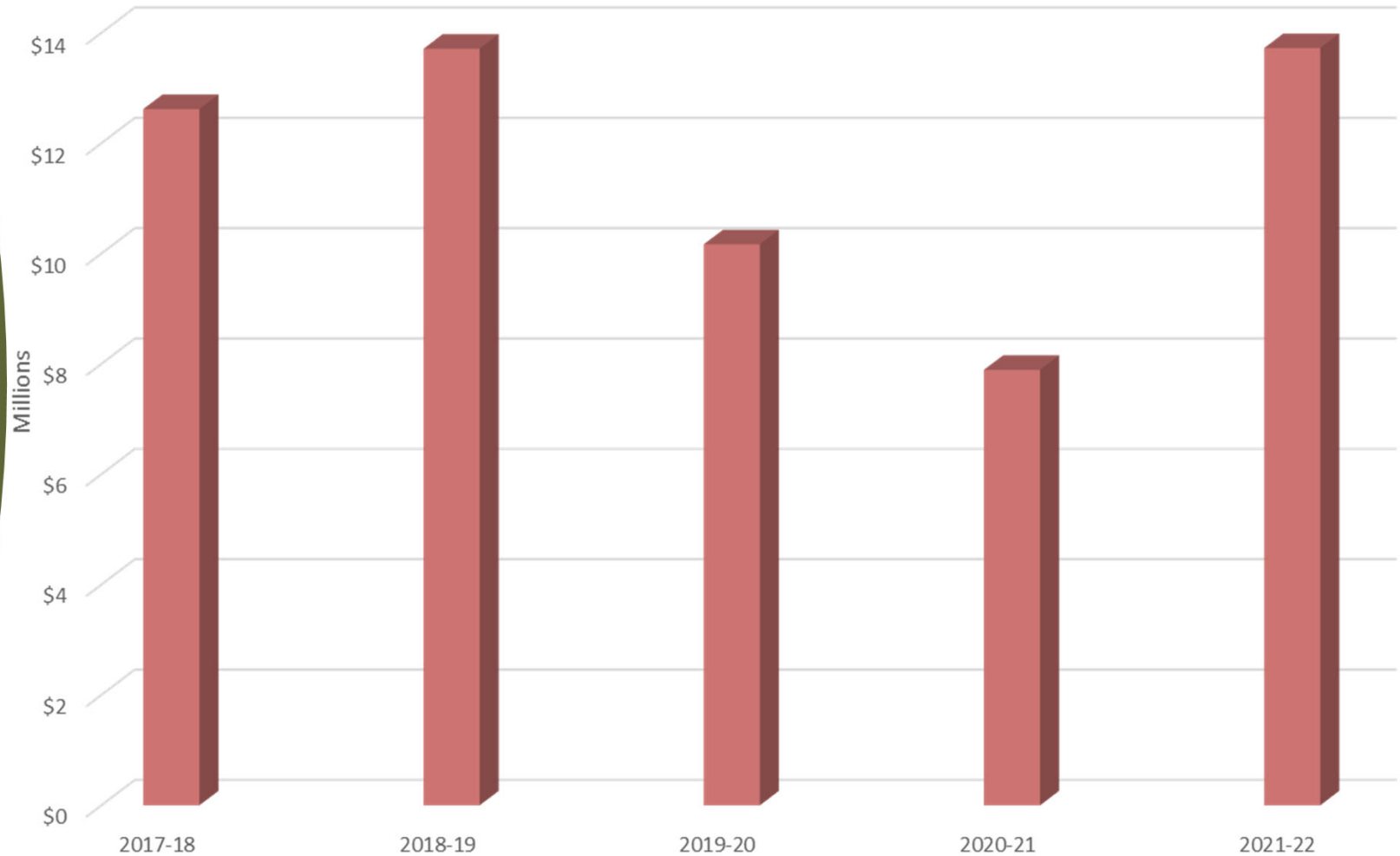




# Transient Occupancy Tax Actuals



A Tradition of Stewardship  
A Commitment to Service



# Expenditure Projections

- Salary and Benefits: 3.25% COLA in FY2023-24, then 3% after
- Services and Supplies: 5% growth in FY2023-24 then declining after
- Fire Protection: based on CWPP roughly \$9 million annually
- Replacement Jail additional operating cost:
  - FY2023-24: \$855K
  - FY2024-25: \$3.4 million



A Tradition of Stewardship  
A Commitment to Service

# Major Issues

- Vehicle License Fee (VLF) two-year non-receipt, approximately \$25 million in FY2024-25 and \$25 million in FY2025-26
- Latest data shows NVUSD may not become basic aid for a few more years
- Fire prevention costs, assuming no new revenue
- Replacement Jail operating cost
- Maintain or replace county facilities



A Tradition of Stewardship  
A Commitment to Service

# Board Priorities and Unmet Needs

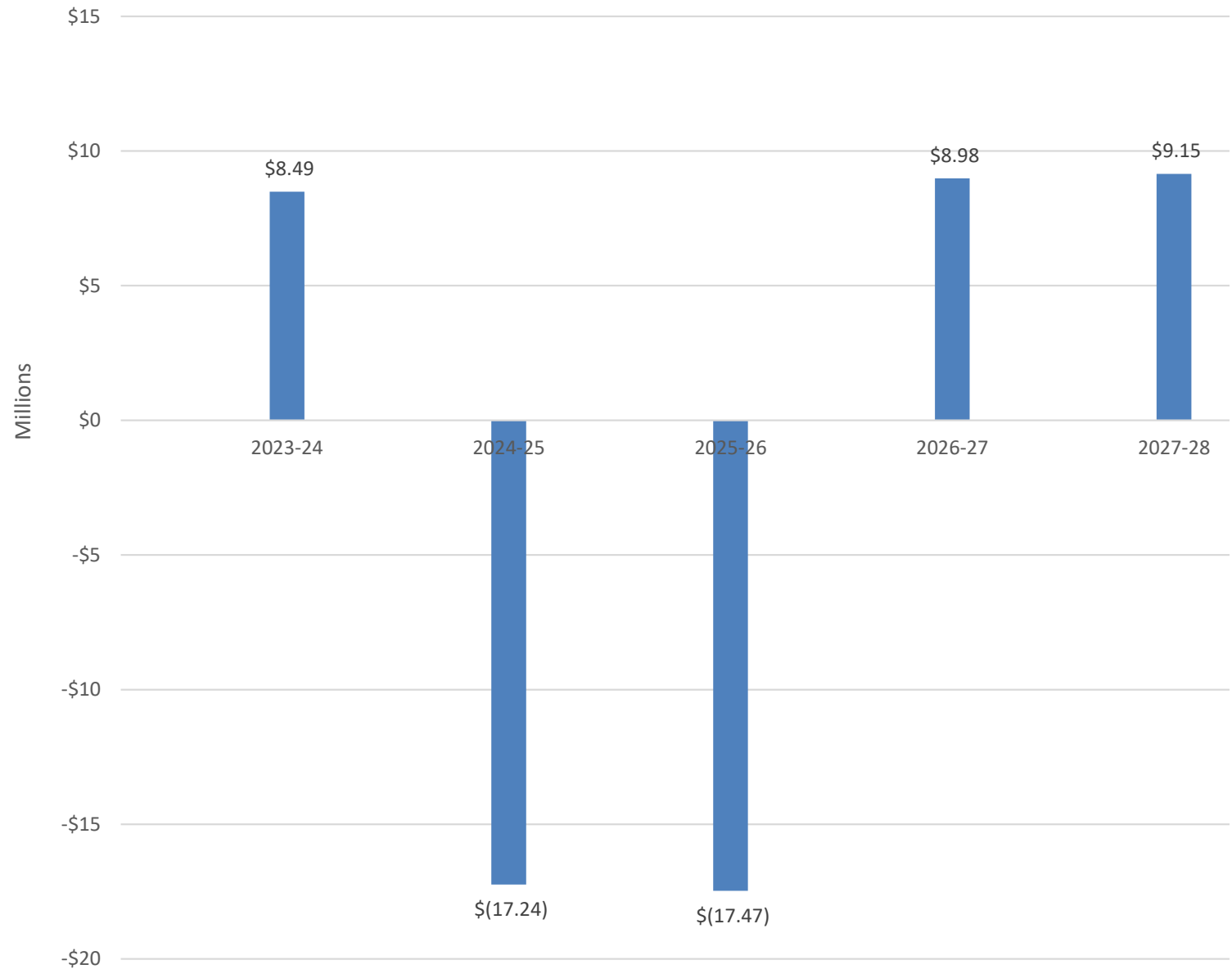


A Tradition of Stewardship  
A Commitment to Service

- Fire protection/prevention
- Affordable Housing and Homelessness
- Climate Action
- Water
- CARE Court
- General Plan update
- County Infrastructure needs: Accumulated Capital Outlay
  - Roads and Bridges
  - Cybersecurity
  - County facilities system repair and maintenance
  - New County Administration Building

# Conclusion

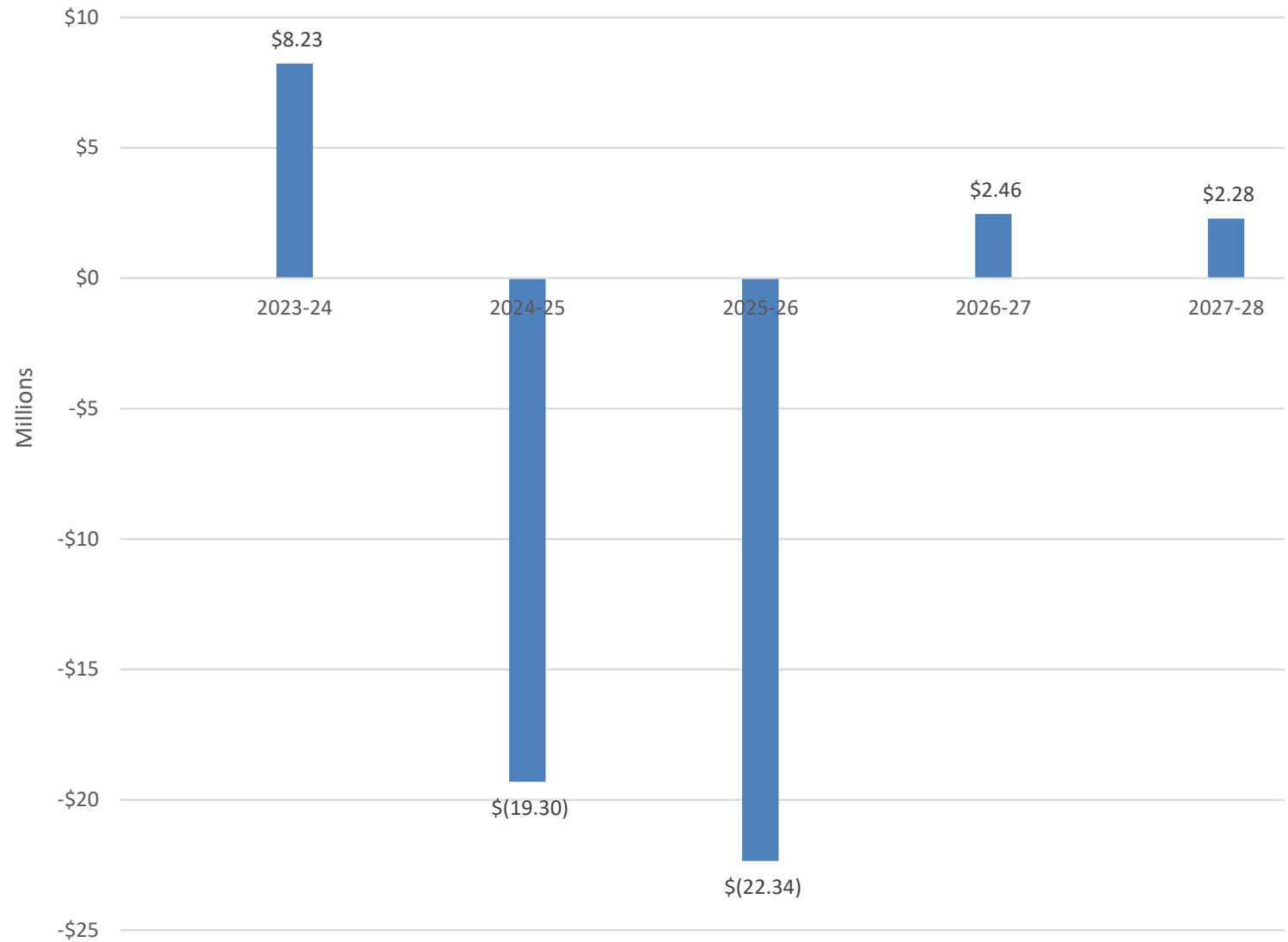
Modest Growth Projection



A Tradition of Stewardship  
A Commitment to Service

# Conclusion

Mild Recession Projection



A Tradition of Stewardship  
A Commitment to Service

# Conclusion

General Fund budget structurally sound

Projection assumes:

- Weak growth (or a mild recession)
- General Fund covering full cost of County Wildfire Protection Plan
- Non-receipt/delay of VLF revenue

The General Fund has the means to sustain a modest recession without significant disruption of core services



A Tradition of Stewardship  
A Commitment to Service

# Request



1. Receive and discuss presentation on the Five-Year Forecast.

A Tradition of Stewardship  
A Commitment to Service



# Section 115 Trust Report

The County established a Public Agency Retirement Services (PARS) Trust to fund its retiree healthcare liability in fiscal year 2008 and has made periodic contributions.

Unfunded Actuarial Accrued Liability at 6/30/21  
\$3,812,000

Account Balance at 7/1/2021	\$109,040,496
Contributions	\$ 4,292,657
Expenses/Distributions	\$ 286,339
Earnings/(Losses)	<u>\$(14,890,549)</u>
Account Balance 6/30/2022	\$ 98,156,265

Account Balance at 12/31/2022 \$100,722,058



A Tradition of Stewardship  
A Commitment to Service

# American Rescue Plan Act

Public Health	\$ 5.2 million
Negative Economic Impacts	\$ 6.1 million
Public Sector Capacity	\$11.2 million
Infrastructure	\$ 4.2 million
Administration	<u>\$ 0.1 million</u>
Total	\$26.8 million



A Tradition of Stewardship  
A Commitment to Service

**Public Health** - EOC operations, vaccinations, isolation and quarantine shelter, and other eligible expenses

**Negative Economic Impacts** - affordable housing investment, community grants, and childcare infrastructure loan program

**Public Sector Capacity** - COVID supplemental sick leave incurred by the organization and the standard allowance. County programmed investment into MSA grant program, fire prevention services, and road improvements

**Infrastructure category** - water, sewer, and broadband projects





# Mid-Year Fiscal Review, 2022-23

A Tradition of Stewardship  
A Commitment to Service



# Mid-Year Review

## Process Overview

- Department estimates of revenues and expenses through the end of Fiscal Year 2022-23
- First step to develop the Fiscal Year 2023-24 Recommended Budget



A Tradition of Stewardship  
A Commitment to Service

# Mid-Year Review

## Assumptions

- Focus on General Fund
- Excess ERAF and ARPA one-time revenue sources are excluded
- Appropriation for Contingency Usage
- The Estimated Ending Fund Balance will be available for the FY2023-24 beginning budget balance



A Tradition of Stewardship  
A Commitment to Service

# Mid-Year Review



A Tradition of Stewardship  
A Commitment to Service

Resources	FY2022-23 Adjusted Budget	FY2022-23 Six Month Estimate	Difference
Available Fund Balance	76,469,000	76,469,000	-
Discretionary Taxes	143,018,000	145,845,000	2,827,000
Departmental	103,370,000	102,983,000	(387,000)
<b>Total Revenue</b>	<b>246,388,000</b>	<b>248,828,000</b>	<b>2,440,000</b>
<b>Total Resources</b>	<b>246,388,000</b>	<b>248,828,000</b>	<b>2,440,000</b>
Requirements			
Expenditures	312,554,000	297,619,000	(14,935,000)
Contingency	4,827,000	63,000	(4,764,000)
Total Expenditures	317,381,000	297,682,000	(19,699,000)
Use of Fund Balance	-	4,208,000	4,208,000
Total Requirements	317,381,000	301,890,000	(15,491,000)
<b>Projected Ending Fund Balance</b>	<b>5,476,000</b>	<b>23,407,000</b>	<b>17,931,000</b>

# Mid-Year Review

- Tax receipts estimated to exceed budget by \$2.8 million
- Contingency \$5 million balance, project \$63,000 remaining
  - Excess COLA, New Positions, and Equity Pay's Salary and Benefits, Overtime
  - Outside Counsel
  - ITS inflationary increases
  - Estimated Ending Fund Balance: \$23 million



A Tradition of Stewardship  
A Commitment to Service

# Request

Interim County Executive Officer requests the Board:

1. Review and accept the Fiscal Year 2022-23 Mid-Year Fiscal Review;
2. Approve Budget Adjustments outlined in the attachment to provide sufficient appropriation authority for operations through fiscal year end (4/5 vote required); and
3. Authorize the creation of a new non-operating special revenue fund for CARE Court.



A Tradition of Stewardship  
A Commitment to Service





# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0401

---

**TO:** Board of Supervisors  
**FROM:** David Morrison, Interim County Executive Officer  
**REPORT BY:** Neha Hoskins, Clerk of the Board  
**SUBJECT:** Appointment to Napa County Planning Commission

---

### **RECOMMENDATION**

Interim County Executive Officer requests the following actions:

1. Consideration and appointment of District 1 Supervisor Joelle Gallagher's nomination of Kara Brunzell to the Napa County Planning Commission with the term of office to commence immediately and run coterminous with the term of Supervisor Joelle Gallagher (December 31, 2026).
2. Consideration and appointment of District 3 Supervisor Anne Cottrell's nomination of Heather Phillips to the Napa County Planning Commission with the term of office to commence immediately and run coterminous with the term of Supervisor Anne Cottrell (December 31, 2026).

Applicants:

Keri Akemi-Hernandez

Yvonne Baginski

Kara Brunzell

Erevan O'Neill

Lucio Perez

Heather Phillips

**EXECUTIVE SUMMARY**

Today's action requests the consideration and possible action to appoint one Planning Commissioner to represent Supervisorial District 1 and one Planning Commissioner to represent Supervisorial District 3.

**PROCEDURAL REQUIREMENTS:**

1. Staff Reports
2. Public Comments
3. Motion to nominate, second, discussion, and vote on the item.

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it Mandatory or Discretionary?	Mandatory
Future fiscal impact:	The position and benefits are coterminous with the nominating District Supervisor. The expenses and other compensations are established by resolution of the Board of Supervisors per Napa County Code Section 2.50.028.
Consequences if not approved:	District 1 and District 3 Supervisors will not have representation on the Planning Commission as required per Napa County Code Section 2.50.022.
County Strategic Plan pillar addressed:	Effective and Open Government

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

The Napa County Planning Commission consists of five members who are residents of the County and appointed by the Board of Supervisors. Section 2.72.020 of the County Code provides that each Supervisor is entitled to nominate one person to the Napa County Planning Commission. The nominee may reside within or without the Supervisor's district and must be affirmed by the full Board. The full Board has the right to approve or reject the nominee of the Supervisor but cannot nominate candidates.

District 1 Supervisor Joelle Gallagher will nominate one person from the list of applicants, and the Board may either approve or reject Supervisor Gallagher's nominee. The term of office will commence immediately and

run coterminous with the term of office of Supervisor Gallagher (December 31, 2026).

District 3 Supervisor Anne Cottrell will nominate one person from the list of applicants, and the Board may either approve or reject Supervisor Cottrell's nominee. The term of office will commence immediately and run coterminous with the term of office of Supervisor Cottrell (December 31, 2026).

---

**Application for Appointment to Board, Commission, Committee, Task Force or Position**

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

**Public Records Act**

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

**Form 700 Conflict of Interest Code**

[California Fair Political Practices Website](#)

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

**Which Boards would you like to apply for?**

Planning Commission: Submitted

**Category of Membership for Which You Are Applying**

Public Member

---

**Profile**

Keri

First Name

R

Middle Initial

Akemi-hernandez

Last Name

  
Email Address

  
Home Address

Suite or Apt

Napa

City

CA

State

94558

Postal Code

**Which supervisorial district do you reside in? \***

☒ District 2

To find your supervisorial district go to <https://www.countyofnapa.org/2051/Find-my-supervisor-and-district> and enter your address.

Home: 

Primary Phone

Luxe Places International Realty  
Employer

Real Estate Executive  
Professional  
Job Title

Realtor/Entrepreneur/Small  
Business Owner DRE  
01273602  
Occupation

## Education/Experience

23 years in Real Estate AA from Chamberlin R.E. School, Campbell, Ca 23 years in Business & Marketing, NVC and Santa Rosa J.C. 6 years Viticulture & Enology, NVC 2 years Sports Medicine, Santa Rosa J.C. 3 years Nursing @ Saddleback College, Mission Viejo, Ca

## Name and occupation of spouse within the last 12 months, if married. (For conflict of Interest purposes)

Filed for Divorce February 2022

## Resume

[see attached](#)

Upload a Resume

Letter of Recommendation or Supplemental  
Attachments

## Professional or occupational license, date of issue, and expiration including status

Active Real Estate License DRE 01273602, Issued January 2021 and Expiring March 2026

## References: Provide names and phone numbers of 3 individuals who are familiar with your background.

E. Beth Nelsen [REDACTED], Bill Chadwick [REDACTED] Blanca Huijon [REDACTED]

## Community Participation

### Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.

As a real estate agent and a person involved with housing across Napa County and the surrounding bay area, planning is a critical role that I would like to be proactive to address these concerns locally and regionally. I believe that my advocacy for small businesses, affordable housing, project management, as well as knowledge of land use with the leadership roles that provide key insight to collaborate with others on the Planning Commission, Community Members and Partners to make informed recommendations to the Board of Supervisors. I believe my diverse background, personal and professional experiences offer a deep sense of compassion for all facets of life to advocate for indigenous, latinx, black, asian, LGBTQIA, women, parents, youth, poor and marginalized community members. I am open minded, thoughtful, enjoy collaborating with others, and very passionate community leader. I think my peers will share their experiences in how easy and enjoyable it is to work with me and what we have accomplished together as a team. I believe that I will help make a positive difference and look forward to furthering our commitment to improving our community with the Napa County Planning Commission.

### Nature of activity and community location

---

Napa County H.E.A.C. Vice Chair, Napa County Housing Commissioner, Napa County Mental Health Board Member, Napa County MHB Cultural Advisory Committee Member, Urban Habitat (BCLI) Leadership Cohort 2022, North Bay Organizing Project, Movement Generation, (AIBL) American Indian Business Leader Member, Leadership Napa Valley Class 30, Bi-National Health Task Force Member, PR & Communications Director, LWC Co-Chair, Puertas Abiertas volunteer, Napa Valley Dream Team volunteer, North Bay Rapid Response Network Co-Founder, Citizenship Legal Services volunteer, Habitat for Humanity volunteer, Suscol Intertribal Council past Fundraising Chair and volunteer, Tzu Chi of Santa Rosa volunteer and many more.

### Other County Board/Commission/Committee on Which You Serve/Have Served

---

Napa County H.E.A.C. Vice Chair, Napa County Housing Commissioner, Napa County Mental Health Board Member, Napa County MHB Cultural Advisory Committee Member

### Public Actions that may impact Credit Rating (List all court or other public administration actions impacting your credit rating within the past ten (10) years)

---

No adverse actions taken but I have some debts accumulated from Divorce in 2010 or Divorce in 2022, Victim of Violent Crime in 2012, I was injured in a car accident in 2017, I was a bicyclist involved in hit-run Car accident 2019, COVID-19 related loss of income.

---

### Electronic Signature Agreement

I meet the criteria required to serve in this position.

---

☒ Yes ☐ No

I declare under penalty of perjury that the foregoing is true and correct.

---

☒ Yes ☐ No

### Please Agree with the Following Statement

---

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

---

☒ I Agree

### Electronic Signature (First M. Last)

---

Keri Rose Akemi-Hernandez

### Date

---

01/09/2022

---

## OBJECTIVE

I am looking for an opportunity to work with a team that runs on clear communication. I want to align myself with a company I believe in and where I can create positive change. I am always looking to learn more, and I am open to taking on challenging projects.

---

## SUMMARY OF QUALIFICATIONS

Professional with over 20 years of experience; persistent, determined, positive attitude, strong work ethic & integrity, highly organized, ability to multi-task in a fast-paced environment, and rapid-learner. My diverse work experience offers a unique set of skills. Abilities Include:

- Customer Service and Office Administration (22 years)
- Wine Hospitality (6 years)
- Operations Analyst (4 Years)
- Consulting, Communications, Sales, Marketing, Public Relations (22 years)
- Real Estate, Land Acquisition and Finance (22 years)
- Design & Project Management (22 years)
- Works well Independently and as a Team Player
- Open & Direct Communication
- Exceptional Customer Service
- Simplify & Resolve complex problems
- Sound Judgment & Objectivity when making decisions
- Strong Contract, Correspondence, Content Writing, & Interpersonal Communication skills
- Excellent Negotiation Skills
- Sales Fulfillment, E-Commerce, POS Compliance Systems:  
E-Winery, Microworks WineDirect 4.1, ShipCompliant, Authorize.Net
- ERP Operating System, CRM and Database Management System: JD Edwards, Salesforce
- Microsoft Office Suite: Word, Excel, PowerPoint, Outlook

### **Customer Service, Office Administration and Hospitality-** *Provide an exceptional Customer Service.*

- Provided warm personalized customer relations that is positive, courteous and respectful attitude at all times.
- Developed & maintained CRM database
- Processed and coordinated multiple phone, e-mail & web sales orders daily
- Executed customer requests with accuracy & professionalism.
- Implemented customer loyalty programs, increase wine club membership & focus on customer retention.
- Point of contact who resolved customer issues in a timely manner and maintain customer satisfaction & loyalty.
- Represented winery at onsite & offsite promotional events and tastings.
- Provided strong presentation skills with the ability to relay knowledge of wines and wine production
- Hosted wine and cheese pairings and VIP Visits & Private wine tastings & tours
- Promoted wine club and grow membership.
- Networked with neighboring wineries, restaurants, hotels, resorts, limo & bus tour companies, restaurants, golf courses and local retailers to promote our brand & expand recognition.

### **Operations Analyst-** *Dedicated to work as a Team Player with all departments to improve efficiency and protect the company operations.*

- Review existing business operations and provide analysis on effectiveness or recommend improving work methods
- Analyze data and conduct research
- Identify problems and recommend solutions
- Follow compliance standards and regulations
- Monitor company operations
- Find ways to improve productivity and cohesive workflow
- Improve interdepartmental communication
- Review budgets and prepare reports
- Reconcile monthly inventories, and track costs with the Finance department and Chief Executive officers

**Consulting, Communications, Sales, Marketing and Public Relations-** *Consistently exceed goals & expectations.*

- Set goals to maximize sales opportunities.
- Applied Extensive Sales Knowledge and Training Techniques to overcome objections and negotiate terms.
- Developed new & Maintained existing customer relationships within a determined territory.
- Researched current Market Trends and Competition to analyze how to maximize our advantage.
- Generated interest by contacting prospective clients, via phone, email or any general communication method.
- Created & Maintained Database.
- Educated clients about available products, services resources and demonstrated how to utilize them effectively & demonstrated value.
- Understood customer(s) needs & made expert recommendations.
- Analyzed customer accounts to maximize benefits to promote financial success.
- Point of contact to Resolve customer issues and Maintain customer Satisfaction & Loyalty.
- Prepared and Reviewed legal contracts, documents, and related correspondence.
- Coordinated time sensitive timelines and managed each step of the process through to successful completion.
- Created Print & Internet Marketing strategies & Campaigns to promote sales.
- Create Print collateral: Ad Campaigns, Flyers, Quarterly Newsletter, etc.
- Create e-Blasts for special announcements, events & promotions.
- Write press releases, develop press kits
- Maintain website and social media sites
- Coordinate all efforts with all key decision makers, internal departments and collaborate with other professionals or agencies
- Conduct Presentations in front of major offices and industry trade associations, demonstrating products and services.
- Volunteer my time on various boards, advocate with many non-profit groups and provide donations to local charitable organizations.

**Real Estate, Land Acquisition and Finance-** *Top Sales Performer. Tough Negotiator. Consistently exceed goals & expectations.*

- Local & Global executive professional who develops plans to help clients succeed and build their wealth.
- Manage and grow a high-net-worth client portfolio which represents over \$20 million in assets
- Identify opportunities to acquire or sell residential, commercial, vineyard, and land listings to sell or represent buyers
- Provide market research, ROI analysis and development mitigation research and project coordination
- Administer land on behalf of clients with their acquired property to coordinate with various agencies and specialists for approval
- Optimize resources, leverage network to maximize listing exposure and help clients realize high net returns
- Educate clients about available products, services resources and demonstrated how to utilize them effectively & demonstrate value
- Listen to better understand customer(s) needs & made expert recommendations.
- Provide complex analysis, strong negotiation and innovative sales techniques and creative marketing strategies
- Analyze customer accounts to maximize benefits to promote financial success.
- Point of contact to Resolve customer issues and Maintain customer Satisfaction & Loyalty.
- Prepare and review contracts, documents and related correspondence.
- Coordinate time sensitive timelines and managed each step of the process through to successful completion.
- Create Print & Internet Marketing strategies & Campaigns to promote sales
- Continue to develop and train the 707 Team to provide additional resources for clients who are able to connect with talented individuals who are highly responsive and engage as needs arise.
- Stay informed on new laws and regulations, as well as to keep up with continuing education to sharpen skills and stay relevant
- Keri Akemi-Hernandez Realtor <https://1kerirealtor.com/>

**Design and Project Management-** *Consistently exceed goals & expectations.*

- Committed to implementing Green, Eco-Friendly, Sustainable and Energy Efficient Design concepts
- Provide conceptual Design for Planning purposes for remodel, new construction or commercial improvements
- Coordinate the Acquisition & Entitlement
- Coordinate Research, Application submission for government approvals for zoning, density, design, use, and permits
- Provide conceptual Residential or Commercial design or Vineyard to support balanced smart growth
- Visual brand design & consulting
- Website & Social Media Design, Re-design, optimization consulting
- Life coaching for personal or business
- Feng-shui & Green Design consulting to plan, arrange & organize
- Non-Profit & Business plan consulting
- Business, Wineries event planning
- Real Estate Partial, Full, Virtual Staging services
- Lifestyle Staging & Re-design
- KRO Design <https://1kro.com>



---

**Wine Club, Sales & Marketing, Public Relations, Customer Loyalty Team Leader, Tasting Room Associate, with Alkar** 01/2012 to Present

*Alkar Human Resources is locally owned and operated employment agency that serves Napa, Sonoma and Solano counties.*

Successfully completed assignments while representing different winery clients and providing exceptional support with their DTC fulfillment, Account Management, Operations, Customer Service, Wine Club, Logistics, Tasting Room, and Special Events needs. Accomplishments include: Increasing wine club memberships by **30%**, Increasing Visitor Traffic by **50%**, Collecting **\$500,000** in Accounts Receivables within 3 months, consistently ranking within the Top amongst my peers for Wine sales.

---

**Real Estate Executive, with Luxe Places International Realty** 08/2020 to Present

*Luxe Places International Realty is a High End Luxury Real Estate Brokerage where I work as an Independent Contractor.*

I continue to manage a portfolio of clients with a net worth over **\$20,000,000.+** I consistently ranked within the **Top agents** within my office. I continue to develop new & maintain existing customer relationships with a long-term focus. I listen to customer needs to make expert recommendations, find ways to maximize benefits and promote financial success. I am highly competitive, and apply extensive sales knowledge to maximize results, overcome objections and negotiate effectively.

---

**Real Estate Executive, with Sotheby's International Realty** 05/2014 to 08/2020

*Sotheby's International Realty is a High End Luxury Real Estate Brokerage where I work as an Independent Contractor.*

I managed a portfolio of clients with a net worth over **\$20,000,000.** I consistently ranked within the **Top 10** within my office. I have been featured on American Dream TV, a local and national real estate TV show. I made a guest appearance on TLC "My First Home," which featured a successful renovation project and also promoted Napa Valley Real Estate to home buyers.

---

**Wine Information Analyst, with Treasury Wine Estates** 07/2013 to 12/2017

*Treasury Wine Estate (NYSE: TWE.AX) is the 2<sup>nd</sup> Largest Global Winemaking and Distribution business that is based in Australia.*

I coordinated with the Winemaking team to communicate real time information with all department leaders. I was responsible for processing operations for Wine Production, Compliance and Finance and ensure documentation and compliance is accurate. I was recognized as being a Strong Contributor; ensuring that all documentation is both accurate and compliant. I coordinated with the Winemaking team, Cellar, and other department leaders to make sure current information is accessible on our Network. I analyze the Wine Production operations to managing juice to Bottled Blends, adhere to the Compliance regulations and assist with the required reports, reconcile monthly inventories, and track costs with Finance.

---

**Personal Banker, with Wells Fargo Bank** 12/2009 to 12/2011

*Wells Fargo & Company (NYSE: WFC) is a diversified financial services company.*

I understood customers banking needs to make expert recommendations. Developed new & maintained existing customer relationships with a long term focus. I managed a portfolio of clients with a net worth over \$100,000. I consistently ranked within the Top Personal Bankers in my Region and within my department.

---

**Real Estate Executive, with Pacific Union Real Estate** 01/2006 to 12/2010

*Pacific Union Real Estate is a High End Luxury Real Estate Brokerage where I worked as an Independent Contractor.*

Generated and closed home sales representing **\$3.3 Million** 2006 to 2007, **\$6.3 Million** 2007 to 2008 **\$4.3 Million**

- Successful Tentative Map Approval for 49 lot Major Subdivision, 30 lot Major Subdivision, Preliminary Approval for 5 lot Minor Subdivision, 2006

---

**Real Estate Executive, with Alain Pinel Realtors** 12/1999 to 01/2006

*Alain Pinel Realtors is a High End Luxury Real Estate Brokerage where I worked as an Independent Contractor.*

Generated and closed home sales representing:

**\$5.9 Million** 2005-2006, **\$3.3 Million** 2004 to 2005, **\$2 Million** 2003 to 2004, 2002 to 2003 **\$20 Million**, 2000 to 2001 **\$15 Million**

- Appeared on ABC and BBC to promote The Village at Hiddenbrook New Home community, 2000 to 2003 Generated and closed **100** New Homes

---

**EDUCATION**

---

**Napa Valley College** 08/2012 to 06/2016

**Major: Business Administration. Concentration in Business Management, Viticulture Wine Technology, Wine Marketing & Sales, Double Major: Spanish**

**VWT Program Completed Courses:** Fundamentals of Enology, Wine Marketing, Wines of the World, Winery Compliance and Record Keeping  
**Spanish Completed Courses:** 1<sup>st</sup> and 2<sup>nd</sup> Semester

---

**Sonoma State University** 10/2007

**Wine Marketing Seminar: "Introducing a New Brand to the Market, SSU Wine Business Program**

Marketing Panel Forum: Maggie Zeman, Linda Murphy, Sean Ziegler, Kerry Damskey, Paul Tincknell

---

**Chamberlin** 10/1998 to 06/2002

**Real Estate Broker Major: Real Estate, Finance, and Law. Real Estate Certificate: Equivalent to AA Degree**  
**California DRE License # 01273602**

---

## VOLUNTEER AND COMMUNITY SERVICE

---

### **U.S. Census Bureau Enumerator**

**2020**

As a U.S. Census Bureau Enumerator, I helped collect demographic, economic and housing data on behalf to help my community. I was responsible for canvassing neighborhoods, then documenting and reporting the information. This information is critically important in gathering information to support local programs that will shape the future of our community by ensuring that they get their fair share of federal funds spent on schools, hospitals, roads, public works projects and other vital programs. Developers use the census to build new homes and revitalize old neighborhoods.

### **American Indigenous Business Leaders (AIBL) 2021 Business Plan Conference panel Judge**

I am excited to be one of the 2021 AIBL Business Plan Conference panel judges. AIBL is the only American Indigenous non-profit organization solely dedicated to empowering business students in the United States. Our programs are designed to engage students in activities that stimulate, enhance, and expand educational experiences beyond traditional academic methods. All students are encouraged to participate in AIBL regardless of race, academic major, or career objectives. The goal is to prepare students for business and entrepreneurship opportunities in the future. The competition is intended to provide an educational experience for students by learning the process of creating and presenting a business plan. Each business plan will be created through the efforts of all participating students with my guidance as a business mentor, which will then be presented as a team at the 2021 virtual AIBL Business Plan forum. Judges are asked to evaluate the plans based upon their potential to become a viable new venture and will focus on the plan or idea, its potential for value creation, and the likelihood of achieving success based upon the team's plan and presentation. As a Team Leader, I will manage all communications and logistics for the team, including any written, verbal, or electronic communications with the National AIBL staff. The Team Leader's responsibilities include:

- Submitting your team's completed Business Plan application, and AIBL Chapter registration form (if applicable)
- Ensuring that all submissions are made by the deadline
- Students are expected to: a. Be a driving force behind the new venture b. Have played a major role in developing and submitting the business plan c. Participate in the presentation at the conference.

### **Napa County Housing Commissioner**

**2020 to 2024**

The Napa County Housing Commission (NCHC), an advisory body to the Housing Authority and Board of Supervisors, was reconstituted in late 2015 to expand its focus from overseeing the three migrant centers to including reviews of any project requesting funding from the County's Affordable Housing Fund.

### **Board Member, with the Napa County Health Board**

**2020 to 2024**

The Mental Health Board serves as an oversight committee by reviewing and evaluating the community mental health needs, services, and facilities, and advising the Napa County Mental Health Director and Board of Supervisors as to any aspect of the County's mental health programs.

### **Board Member, with Napa County Mental Health Cultural Competency Advisory Committee**

**06/2019 to Present**

In collaboration with community leaders within the Napa County Mental Health System commitment to cultural competence Napa County Mental Health Plan (NCMHP) and the commitment to ensuring the provision of county- wide mental health services are delivered in ways which recognize, are sensitive to, and respectful of individual, cultural and linguistic differences as illustrated throughout this updated Cultural Competence Plan. The Mission Statement: to responsibly provide mental health services that promote individual strengths, inspire hope, and improve the quality of life for people within Napa County.

### **Solano & Napa Medical Society (SCMS/NCMS), Fundraising Chair and Event Sponsor**

**2019 to 2020**

As the fundraising chair, I oversaw all fundraising efforts and coordinated all donations. The Solano County Medical Society and Napa County Medical Society Awards Gala is a celebration of physicians in the region, their many accomplishments in providing quality health care, and their leadership in organized medicine and within the community. Both NCMS and SCMS are affiliated with the California Medical Association and the American Medical Association.

### **Napa Valley Film Festival Educational Team & Outreach Member**

**2020**

As a part of the educational team, I helped organize a special selection of festival films to screen in the classroom. I helped behind the scenes Q&A with Filmmakers, Actors to discuss their subjects while visiting students or engage in intimate small private community screenings. NVFF hosts and sponsors year-round **film** screenings for students, parents, and educators throughout the **Napa Valley**. These **films** seek to generate thought-provoking discussions across our diverse audiences, as well as to enrich the community by presenting an annual world-class **festival** and year-round **education** and outreach programs.

**Public Relations, Communications Director, Co-Chair, Bi-National Health Alliance Napa County** **01/2016 to 03/2019**

As a volunteer with the Bi-National Health Alliance of Napa County serve as a Task Force Member. In 2017 to 2019, I was elected to serve as the Public Relations & Communications Director. In 2018 to 2019, I was elected as the Co-Chair for the Latina Women's Conference. I kept members informed about the Organization goals, events and success stories. I worked closely with other members of the team to develop, maintain, and implement marketing and public relations strategies that promote our mission, raise awareness, seek donations and increase our social media presence. Bi-National Health Alliance of Napa County is a collaborative effort of various Napa County Latino service providers and community members, whose goal is to bring awareness to and address the specific health needs of the Latino community living in Napa County. In partnership with the Health Initiative of the Americas, a program of the University of California at Berkeley School of Public Health, the Counsel General of Mexico in San Francisco, and other local, state and national organizations, Bi-National Health works to improve quality of life, promote positive physical and mental health behaviors, provide opportunities to access resources in a culturally sensitive environment, and empower the Latino community overall. Mission: To improve the Latino's quality of life, by promote positive physical and mental health behaviors, and to address the need of culturally sensitive approaches.

**Class 30 Alumni with Leadership Napa Valley Class 30** **01/2016 to Present**

I am honored to be selected out of 50 applicants, for one of 28 seats. I am learning more about our local government and how to collaborate with leaders within our community. The Leadership Napa Valley program's mission is to make the Napa Valley a better place to live, work and do business by involving, informing, and inspiring leaders to strengthen our community.

**Community Advocate, Napa Valley Dream Team and North Bay Rapid Response Network** **01/2014 to Present**

I volunteer to participate in workshops and stay informed about community issues. The Napa Valley Dream Team supports students and community members to advocate for the rights of undocumented youth within the Napa Valley. We work together to change policies in order to support [im]migrant families and continue to self-empower ourselves in an effort to become a resource to those who need it.

**Home Builder and Fundraising Volunteer, with Habitat for Humanity** **01/2000 to Present**

I volunteer to raise money and to build homes with Habitat for Humanity in Napa, Solano, Sonoma, Lake and Contra Costa counties for over 16 years. At Habitat for Humanity, we build. We build because we believe that everyone, everywhere, should have a healthy, affordable place to call home. More than building homes, we build communities, we build hope and we build the opportunity for families to help themselves.

**National Communications Director, with Women for WineSense** **07/2013 to 07/2014**

I was elected as a volunteer to serve as the National Communications Director for Women for WineSense. I will keep members informed about the Organization goals, events and success stories. I will work closely with other members of the team to develop, maintain and implement marketing and public relations strategies that promote our mission and expand Regional and National recognition.

**International Wine Competition Volunteer, with Sunset Magazine** **2013 to 2014**

The Sunset Magazine International Wine Competition is one of the most ambitious and successful wine competitions where judges qualify wines to discern which wines are worthy of accolades and medals. I worked behind the scenes for the event to organize and categorize wine, as well as prepare tastings for the panel of judges.

**Fundraising Chair, with Suscol Intertribal Council** **01/2014 to 12/2016**

I work with the members of Suscol Intertribal to seek fundraising within our community to support their programs. The Mission of Suscol Intertribal Council is to develop and maintain a Native American "Suskol House" in Chiles-Pope Valley, located in the Northeastern corner of Napa County, CA. The Land project is sustainable, environmentally-friendly open space, as well as preserving and protecting Native American sacred sites and traditions. The Suskol House project will host small groups of between 8 and 40 people for a spiritual healing retreat. The members also provide other resources to continue to support our local schools diverse Community cultural Education outreach programs. We are lucky to have an incredible asset in our own backyard and be able to share the beautiful traditions with our children.

**Workshop Volunteer, Citizenship Legal Services** **01/2014 to 12/2016**

I volunteer to assist citizens with forms and resources to complete their Citizenship application through monthly workshops. Citizenship Legal Services, formally Legal Aid of Napa Valley, provides bilingual assistance to immigrants on their path to Naturalization and United States Citizenship.

---

**REFERENCES**

Available Upon Request

---

**Application for Appointment to Board, Commission, Committee, Task Force or Position**

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

**Public Records Act**

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

**Form 700 Conflict of Interest Code**

[California Fair Political Practices Website](#)

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

**Which Boards would you like to apply for?**

Planning Commission: Submitted

**Category of Membership for Which You Are Applying**

Board member

---

**Profile**

Yvonne

First Name

M.

Middle Initial

Baginski

Last Name

  
Email Address

  
Home Address

Suite or Apt

Napa

City

CA

State

94558

Postal Code

**Which supervisorial district do you reside in? \***

☒ District 4

To find your supervisorial district go to <https://www.countyofnapa.org/2051/Find-my-supervisor-and-district> and enter your address.

Home: 

Primary Phone

Retired

Employer

Retired

Job Title

Former Business Owner and  
Executive Director

Occupation

## Education/Experience

Current: Retired. Senior Senator representing Napa/Solano Counties, California Senior Legislature, Principal in "Vote No on Measure J Committee, Environmental volunteer, member of Sierra Club, Napa Climate Now!. Founder, of the non-profit Share the Care Napa Valley, Recycling medical and home health supplies, Crisis care for older adults. Founder, Business Owner, Born To Age, Senior Care Directories for five Bay Area Counties Family Care Consultant for children caring for aging parents. President, Napa County Alliance on Aging (ten years) Author of four books representing historical figures in Napa County Misc. career of grant writing, editorial, public relations, marketing plans, etc. Graduate, Class 6, Leadership Napa Valley AWARDS: Napa Climate Champion, 2022 California Naturalist, 2022 (completed 40 hours of coursework) Jefferson Award, 2020 Values in Action, St. Joseph Health System, 1996 Skills: Investigative research, writing, managing complex projects, observation, developing ideas, networking, organizing events, planning, fundraising, etc.

**Name and occupation of spouse within the last 12 months, if married. (For conflict of Interest purposes)**

## Resume

Upload a Resume

Letter of Recommendation or Supplemental  
Attachments

**Professional or occupational license, date of issue, and expiration including status**

**References: Provide names and phone numbers of 3 individuals who are familiar with your background.**

Eve Kahn: Beverly Saxon Leonard: Naomi Dreskin:

## Community Participation

**Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.**

For the past year, I have been delving deeply into the public hearing/planning process for several potential facility sites, expansions and builds in Napa County. During my research, I have discovered inconsistencies in reports, errors in conclusions, lack of accurate information, and blatant falsehoods. The limits of what the Planning Agency can act on, and public good is of special concern. In my work investigating the narrative to oppose Measure J on the City of American Canyon's ballot, I discovered that many believe what is written, but few look into it for deeper truth. Napa County is exploding with development, and yet there is no wildlife habitat conservation plans, water resource considerations, climate crisis plans, renewable energy requirements, etc. There is so much work ahead of us, we need clear visionaries who are facing the future, not the past. Planning Commission's must be morally committed for the public good. Napa County embraces a multiplicity of natural environments that must be preserved for our future. These include oak woodlands, wetlands, grasslands, rivers, watersheds, etc. Local land use planning has never been more important than it is today. The planning commission must contain members with a variety of skills to bring forth a fair and just system of evaluating projects for sustainability, and conservation practice and finally, have the guts to say no to projects that violate current laws. I believe that I can maintain that integrity. I have lived in Napa over 33 years, raised my family here and believe that we can be a model for other communities.

**Nature of activity and community location**

**Other County Board/Commission/Committee on Which You Serve/Have Served**

None.

**Public Actions that may impact Credit Rating (List all court or other public administration actions impacting your credit rating within the past ten (10) years)**

None

---

### **Electronic Signature Agreement**

**I meet the criteria required to serve in this position.**

☒ Yes ☐ No

**I declare under penalty of perjury that the foregoing is true and correct.**

☒ Yes ☐ No

**Please Agree with the Following Statement**

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

☒ I Agree

**Electronic Signature (First M. Last)**

Yvonne M. Baginski

**Date**

December 29. 2022

---

**Application for Appointment to Board, Commission, Committee, Task Force or Position**

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

**Public Records Act**

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

**Form 700 Conflict of Interest Code**

[California Fair Political Practices Website](#)

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

**Which Boards would you like to apply for?**

Planning Commission: Submitted

**Category of Membership for Which You Are Applying**

Commission

---

**Profile**

Kara

First Name

L

Middle Initial

Brunzell

Last Name

  
Email Address

  
Home Address

  
Suite or Apt

Napa

City

CA

State

94559

Postal Code

**Which supervisorial district do you reside in? \***

☒ District 1

To find your supervisorial district go to <https://www.countyofnapa.org/2051/Find-my-supervisor-and-district> and enter your address.

Home: 

Primary Phone



Brunzell Historical  
Employer

Principal/Architectural Historian  
Job Title

Architectural Historian  
Occupation

## Education/Experience

MA Public History CSU Sacramento BA History UCLA

## Name and occupation of spouse within the last 12 months, if married. (For conflict of Interest purposes)

Phil Barber, journalist




## Resume

  
Upload a Resume

Letter of Recommendation or Supplemental  
Attachments

## Professional or occupational license, date of issue, and expiration including status

## References: Provide names and phone numbers of 3 individuals who are familiar with your background.

David Graves  Anna Chouteau  Cindy Watter 

## Community Participation

### Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.

Living in Napa County since the 1990s has given me a deep appreciation for this special place and its people, and has taught me the value of community service. My professional background working in land-use planning has give me a strong understanding of the functions of municipal governments and the regulatory context that governs project development. As a homeowner and business owner, I also understand the perspective of project proponents and landowners. I am experienced at brokering win-win compromises and as a Planning Commissioner would be oriented toward environmental protection, maintaining our water supply for the future, equity, and maintaining an environment that allows agriculture to thrive sustainably. I have previously served the community in many volunteer roles including: as a COVID testing site worker during the pandemic, as a Napa County Library adult literacy tutor, on the Rock the Congress organizing committee, as a tutor as well as an after school enrichment teacher at NVLA elementary school, and on the St. Helena Nursery School Board of Directors. I am ready to turn my energy and attention toward service to the broader countywide community. I have the skills, background, values, and attention to make a positive contribution to Napa County Planning Commission.

## Nature of activity and community location

Napa County Planning Commission

Other County Board/Commission/Committee on Which You Serve/Have Served

---

Public Actions that may impact Credit Rating (List all court or other public administration actions impacting your credit rating within the past ten (10) years)

---

---

### Electronic Signature Agreement

I meet the criteria required to serve in this position.

---

☒ Yes ☐ No

I declare under penalty of perjury that the foregoing is true and correct.

---

☒ Yes ☐ No

### Please Agree with the Following Statement

---

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

---

☒ I Agree

Electronic Signature (First M. Last)

---

Kara L. Brunzell

Date

---

January 7, 2023

---

## **KARA BRUNZELL**

**Owner/Principal Historian (2012 – Present)**

**Brunzell Historical LLC**

██

### **EXPERTISE**

Kara Brunzell has practiced as a Historian and Architectural Historian in cultural resource management and historic preservation since 2007. Kara established Brunzell Historical to provide built environment compliance and historic landmark nomination services in 2012. She has served as a consulting historian and project manager on historical research investigations for federal, state, and local governments. She is proficient in the recordation, inventory, and evaluation of historic resources using the National Register of Historic Places (NRHP) and the California Register of Historic Resources (CRHR) guidelines. Her expertise includes preparing reports and making recommendations pursuant to Section 106 compliance for transportation and telecommunications projects. Kara is experienced in applying the California Environmental Quality Act (CEQA) to both large-scale survey projects and individual historic-period resources, as well as application of California Public Resources Code 5024.5 to state-owned historic buildings. She has prepared many successful NRHP nominations for both individual properties and historic districts. Kara qualifies as a Historian and Architectural Historian under the United States Secretary of the Interior's Professional Qualification Standards (as defined in 36 CFR, Part 61).

### **EDUCATION**

California State University, Sacramento, MA, Public History

UCLA, BA, History

### **CONTINUING EDUCATION**

HUD's Office of Environment and Energy: Historic Preservation and HUD, May 2014

California Preservation Foundation Workshops:

The Environmental Benefits of Reuse, August 2011

Preservation Ordinances, April 2011

The Use and Application of the California Historical Building Code, July 2009

### **SELECT PROJECT EXPERIENCE**

**Architectural History Effects Investigations for Telecommunications Projects, Ace Environmental LLC, (2019-current).** Kara manages and authors determinations of effects studies for proposed cellular antenna installation and expansion projects located on historic-period buildings or within historic districts throughout California. Project impacts on historic properties are assessed in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, the Nationwide Programmatic Agreement for Colocation of Wireless Antennas, effective March 2001 and the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (March 2005) as well as subsequent relevant Report and Orders. The reports assess whether the proposed undertakings would result in direct or visual effects to historic properties. Since 2019, Kara has assessed more than one hundred telecommunications sites throughout California in Alameda, El Dorado, Los Angeles, Orange, Placer, San Bernardino, Sacramento, San Francisco, Santa Clara, Santa Cruz, San Mateo, Sonoma, Stanislaus, and Ventura counties as well as in Reno, Nevada.

**Section 106 Compliance, Roadway Improvements for Traffic Signal Installation at the Corral Hollow Road and Linne Road Intersection Project County, Tracy, San Joaquin County, California (current).** Kara is managing preparation an assessment of the built environment resources (two rural-residential properties) in the Area of Potential Effects, an agricultural/commercial area southwest of Tracy. She has overseen field review, photo-documentation of built environment in the Area of Potential Effects, preparation of California Department of Parks and Recreation 523 forms, evaluation of the recorded resources for NRHP and CRHR eligibility, and prepared a Historic Resources Evaluation Report for Caltrans review.

**Section 106 Compliance, State Route Highway 1 Auxiliary Lanes and Bus-on-Shoulder Improvements—Freedom Boulevard to State Park Drive—and Coastal Rail Trail Segment 12 Project, Santa Cruz County, California (2020-current).** Kara is managing preparation an assessment of the built environment resources (a railroad, park, NRHP-listed hotel, and several historic-era residential and commercial buildings) in the Area of Potential Effects in Aptos. She has overseen field review, photo-documentation of built environment in the Area of Potential Effects, preparation of California Department of Parks and Recreation 523 forms, evaluation of the recorded resources for NRHP and CRHR eligibility, community consultation with interested local parties, a Historic Resources Evaluation Report and is preparing a finding of adverse effect.

**Historic Standards Review, Proposed Downtown Station Project, Santa Rosa, Sonoma County, California (2022).** Kara reviewed a proposed six-story building for conformance with the Secretary of the Interior's standards For the Treatment of Historic Properties and Santa Rosa Design Guidelines pursuant to CEQA and local regulations. The subject property was vacant but located within the Railroad Square Historic District and adjacent to the West End Historic District, and potential indirect impacts to both districts were therefore assessed.

**Section 106 Compliance, Highway I-80/ Central Avenue Interchange Improvement Project, Phase 2, City of Richmond, Contra Costa County, California (2022).** Kara managed preparation of an assessment of the built environment resources (five historic-era residential and commercial buildings) in the Area of Potential Effects and a Historic Resources Evaluation Report for Caltrans review. She oversaw field review, photo-documentation of built environment in the Area of Potential Effects, preparation of California Department of Parks and Recreation 523 forms, and evaluation of the recorded resources for NRHP and CRHR eligibility.

**Section 106 Compliance, Redwood Complex Ignition-resistant Construction Project (2021 – 2022).** Kara oversaw streamlined assessment of roughly 25 historic-era properties enrolled in a roof replacement project managed by Mendocino County Fire Safe Council (MCFSC) and funded by FEMA HMGP and CalOES. Hello funded grant project to provide rebates to homeowners in the high and very high fire hazard severity zones in Mendocino County

**Historic Standards Review, Proposed Alterations to Castanada Adobe, Sonoma, Sonoma County, California (2015 and 2021).** Kara and assisted with the conversion of the NRHP-listed Castanada Adobe from residential to commercial use in 2015, reviewing architectural plans for conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. She worked with the property owners and their architects to ensure the alteration in use would not have a negative impact on the historic integrity of the 1830s-era adobe. When alterations were planned in 2021, Kara again reviewed the project for conformance with the standards.

**Historical Evaluation and Historic Standards Review, Casa Bella (Monroe Ranch), Kenwood, Sonoma County, California (2021).** Kara evaluated the 1911 Prairie-style Monroe Ranch House in Kenwood for NRHP, CRHR, and County of Sonoma eligibility. The property was recommended eligible for its architecture and historic associations. A proposed project was assessed for conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

**Historical Evaluation of the Snow Mountain Ditch, Nevada County, California (2021).** Kara evaluated the c1853 water conveyance infrastructure for historical significance pursuant to CEQA. The structure lacked significance under the criteria and was recommended ineligible for the NRHP and CRHR.

**Historical Evaluation of the Clark Ranch near Table Bluff, Humboldt County, California (2021).** Kara evaluated the historic-era rural-residential complex for architectural and historical significance pursuant to Section 106. The property lacked significance under the criteria and was recommended ineligible for the NRHP and CRHR.

**Historical Evaluation of the former Adler Planing Mill, Sonoma, Sonoma County, California (2020).** Kara evaluated a house on Spain Street in downtown Sonoma for architectural and historical significance pursuant to CEQA. The house was originally one of several buildings associated with the historically significant lumber business on the site but was recommended ineligible for the NRHP and CRHR listing because it lacked integrity.

**Historical Evaluation of the Natomas Cross Canal, Sutter County, California (2020).** Kara evaluated the 1912 – 1915 flood control feature for historical significance pursuant to CEQA. The study revealed that the structure is significantly associated with to context of flood control and reclamation and it was recommended eligible for listing on the NRHP and CRHR as a contributor to the NRHP-eligible Reclamation District 1000 Rural Historic Landscape District.

**Interlake Tunnel Project: Monterey County Water Resources Agency; Monterey and San Luis Obispo Counties, CA (2017-2020).** Kara evaluated San Antonio and Nacimiento Dams in Monterey and San Luis Obispo Counties for NRHP and CRHR eligibility. She produced a historic context of the water resources agency and chronologies of development for the two dams, both of which were recommended ineligible for historic listing.

**Section 106 Compliance, I-80/Ashby Avenue Interchange Improvement Project, Berkeley, Alameda County, California (2019).** Kara prepared an assessment of the built environment resources (a radio station and tunnel) in the project study area for inclusion in a Preliminary Environmental Assessment Report for California Department of Transportation review. She conducted a field review, recorded buildings in the project area of potential effects on California Department of Parks and Recreation 523 forms and evaluated the recorded resources for NRHP and CRHR eligibility.

**Caritas Village Historical Evaluation Report, Impacts Assessment and Mitigations, Santa Rosa, Sonoma County, California (2015 – 2018).** Kara prepared a historical resource evaluation of the old General Hospital block pursuant to CEQA for the proposed 128-unit Caritas Village affordable housing project. Several of the existing buildings were contributors to Santa Rosa's St. Rose Historic Preservation District; others had been constructed during the historic period but not previously evaluated. General Hospital (1919) was evaluated under the CRHR and NRHP criteria along with a warehouse, an apartment building, and eight single-family residences. The apartment building and the oldest of the houses were determined eligible as district contributors by the study; the other resources evaluated lacked significance or integrity. Kara assessed project impacts under CEQA as well as Santa Rosa Design Guidelines for the resources in the project area as well as adjacent historical resources and recommended mitigations for the impacts of demolition.

**Historical Evaluation and Review of Proposed Project for the Denman Creamery, Petaluma, Sonoma County, California (2017).** Kara acted as Architectural Historian on an Architectural/Historical evaluation of the Denman Creamery, a historic dairy ranch complex in Petaluma that is listed on Sonoma County's Register of Historical Resources. She also produced a report documenting a proposed project on the property's conformance to the Secretary of Interior's Standards for the Treatment of Historic Properties.

---

**Application for Appointment to Board, Commission, Committee, Task Force or Position**

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

**Public Records Act**

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

**Form 700 Conflict of Interest Code**

[California Fair Political Practices Website](#)

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

**Which Boards would you like to apply for?**

Planning Commission: Submitted

**Category of Membership for Which You Are Applying**

Commissioner

---

**Profile**

Erean

First Name

O'Neill

Middle Initial

Last Name

[REDACTED]

Email Address

[REDACTED]

Home Address

[REDACTED]

Suite or Apt

Napa

City

CA

State

94558

Postal Code

**Which supervisorial district do you reside in? \***

☒ District 2

To find your supervisorial district go to <https://www.countyofnapa.org/2051/Find-my-supervisor-and-district> and enter your address.

[REDACTED]

Primary Phone

ONE Design

Employer

President

Job Title

Structural Engineer

Occupation

## Education/Experience

BE Engineering University College Cork. Licensed Civil engineer since 2007 Practicing engineer since 2004

## Name and occupation of spouse within the last 12 months, if married. (For conflict of Interest purposes)

Simone Katz O'Neill (Attorney)

## Resume

[Erevan\\_O'Neill\\_resume.pdf](#)

Upload a Resume

Letter of Recommendation or Supplemental Attachments

## Professional or occupational license, date of issue, and expiration including status

P.E. Civil Engineering C75459 exp 03-31-2024

## References: Provide names and phone numbers of 3 individuals who are familiar with your background.

Richard Appelby [REDACTED] Matthew Regan [REDACTED] Andrew Healy [REDACTED]

## Community Participation

### Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.

I want to contribute to Napa County. Given my experience in Planning and permitting projects in the Bay Area I have the technical code knowledge and experience of entitlement processes that others do not. Understanding stakeholders and public needs with attention to detail that enhance communities and sustainable development practices has been a key component of my professional life for the last 12 years.

### Nature of activity and community location

NERT Program in San Francisco. Aided Napa residents/businesses after the 2014 Earthquake in structural evaluations and removal / downgrading of red and yellow tag status. Local volunteer with coaching underage soccer teams.

### Other County Board/Commission/Committee on Which You Serve/Have Served

None

**Public Actions that may impact Credit Rating (List all court or other public administration actions impacting your credit rating within the past ten (10) years)**

None

---

### **Electronic Signature Agreement**

**I meet the criteria required to serve in this position.**

☒ Yes ☐ No

**I declare under penalty of perjury that the foregoing is true and correct.**

☒ Yes ☐ No

### **Please Agree with the Following Statement**

**By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.**

☒ I Agree

**Electronic Signature (First M. Last)**

Erevan O'Neill

**Date**

01-26-23



## EXPERIENCE

**ONE DESIGN:** <https://onedesignsf.com/about/>

**2011- Present:**

Principal engineer and CEO of company. Specializing in structural engineering and architectural design. Permit procurement and building code analysis. Primarily focusing on planning approval process and entitlements for building permits in San Francisco. Managed over 900 projects in San Francisco and the Bay Area. Worked with stakeholders, homeowners and local agencies to design and oversee the construction projects. Provided clients with critical process analysis and value engineering when evaluating and projecting proforma analyses for scheduling, procuring and developing building projects.

**ENGINEERING 2005-2011:**

- Atrium Engineering: Design and detailing of residential and commercial buildings overseeing the construction and completion of over 300 projects.
- SMW & Associates: design and detailing of a new elementary school in accordance with Division of State Architect requirements for Oakland Unified School District.
- Monarch Engineering: Design and detailing of residential and commercial buildings including the pavilion for the America's Cup in both San Francisco and San Diego.

**INTERNATIONAL EXPERIENCE 2002-2005:**

- 2004-2005: BFA Cork, Ireland: Architectural and engineering design with a focus on the design of car showrooms and public and private facilities. Worked with local jurisdictions on the procurement development of various projects.
- 2002-2004: Cork City Council, Ireland: Developed standards for rehabilitation and redevelopments as part of Cork City Council's dockland developments and rejuvenation of public spaces.

## EDUCATION

**BACHELOR OF ENGINEERING | 2000-2004 | UNIVERSITY COLLEGE CORK, IRELAND**

Graduated with first class honors (Magna Cum Laude) and awarded top distinction in final year thesis and construction project. Notable achievement from ARUP as part of the working peer review for their reinforced concrete and prestressing design at the Glucksman Art Gallery, Cork, Ireland.

## ACHIEVEMENTS AND MERITS

- Licensed civil engineer since January 2007
- Member of SEAOC and ASCE
- Completed the first Additional Dwelling Unit (ADU) project in San Francisco under ORD 162-16
- Worked with the San Francisco Building Department and Planning Department to streamline the various ADU processes available: <https://sfplanning.org/accessory-dwelling-units>
- Completed over 100 soft story retrofit projects as a lead engineer per the San Francisco Soft Story ordinance: <https://sfgov.org/sfc/esip/soft-story>
- Lead role in the development of green incentives and sustainable design practices such as the development of Passive Haus certified buildings and LEED certified projects
- Presented to the City of Napa to residential homeowners for rainwater harvesting and water recycling: <https://www.cityofnapa.org/DocumentCenter/View/6246/February-26-Rain-Gardens-Slides-PDF?bidId=>
- Lead consultant and recognized peer review consultant for temporary shoring and excavations
- ADA & Certified Access Specialist (CASP) consultant as part of San Francisco Accessible Building Entrance (ABE) program
- Developed integrated proposals for rehabilitation of quays, as part of the Cork City European City of Culture program and redevelopment project
- Consulted with the United Irish Cultural Center (UICC) as part of the redevelopment of the new community center: <https://irishcenter2025.org/>
- As part of University College Cork Careers and Entrepreneurship program, provide on-going support to the development of opportunities for students and young graduates: <https://anchor.fm/ucccareers/episodes/Entrepreneurship-with-Erean-ONeill-and-Brad-Wrigley-e18k7te>
- Coach to local underage soccer teams as part of Napa United's recreation league

---

**Application for Appointment to Board, Commission, Committee, Task Force or Position**

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

**Public Records Act**

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

**Form 700 Conflict of Interest Code**

[California Fair Political Practices Website](#)

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

**Which Boards would you like to apply for?**

Planning Commission: Submitted

**Category of Membership for Which You Are Applying**

Planning Commissioner

---

**Profile**

Lucio

First Name

E

Middle Initial

Perez

Last Name

  
Email Address

1940 Lydia Lane

Home Address

Suite or Apt

Saint Helena

City

CA

State

94574

Postal Code

**Which supervisorial district do you reside in? \***

☒ District 3

To find your supervisorial district go to <https://www.countyofnapa.org/2051/Find-my-supervisor-and-district> and enter your address.

Mobile: 

Primary Phone

Glendale Ranch Vineyards

Employer

Vineyard Manager

Job Title

Viticulturist

Occupation

## Education/Experience

Graduated St. Helena High School 1970 Stanford University 1970-1971 UC Davis 1971-1974 / BS Degree in Viticulture and Enology L Perez & Sons / Managing Partner 1976 - Present Glendale Ranch Vineyards / Vineyard Manager 1981 - Present Various Vineyard Management Companies 1974-1981

## Name and occupation of spouse within the last 12 months, if married. (For conflict of Interest purposes)

N/A

## Resume

Upload a Resume

Letter of Recommendation or Supplemental Attachments

## Professional or occupational license, date of issue, and expiration including status

CA Pesticide Operator License - Issued 1975 / Expired 1982 CA Pesticide Advisors License - Issued 1975 / Expired 1982

## References: Provide names and phone numbers of 3 individuals who are familiar with your background.

Mike Hackett - [REDACTED] Beth Novak Milliken - [REDACTED] Andy Beckstoffer - [REDACTED]

## Community Participation

### Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.

I have always been interested in protecting agriculture, the eco-systems and the environment that we have here in our county. I feel that a Planning Commissioner plays an important role in maintaining and preserving the resources and environment in our county, as well as following the County's policies and ordinances. Having lived here in the county for my entire life, along with my experience and science background, I will add additional knowledge, experience and depth to the Planning Commission.

## Nature of activity and community location

Residence - St. Helena Work and Employment - St. Helena, Conn Valley and Napa Recreation - St. Helena, Calistoga, Pope Valley, Conn Valley and Berryessa Unsuccessful bids for Napa County Supervisor for District 3 in 2018 and 2022 Helped plant trees in St. Helena's Redwood Grove Board of Directors, Jack L. Davies Agricultural Fund, January 2015 to present Board of Directors, Save Napa Valley Foundation, 2019 to present Board of Directors, Napa County Farm Bureau, 1988 through March 2018 President, Napa County Farm Bureau, 1994 to 1997 Chair, Land Use and Taxation Committee, 2014 to 2018 Board of Directors, California Farm Bureau Federation, representing the Counties of Marin, Napa and Sonoma, 2004 to 2010 Finance Committee, California Farm Bureau Federation, 2010 Many years of coaching baseball in St. Helena Senior League I was also an active participant in: The campaigns promoting Measure J and later Measure P The development and adoption of the first Hillside Ordinance for Napa County The development and adoption of the original Winery Definition Ordinance for Napa County The development of the County's policies and adoption of the County Ordinance for farm worker housing in the Agricultural Preserve The campaign to pass the growers' assessment for Napa County's farm worker housing, and the renewal of the assessment

## Other County Board/Commission/Committee on Which You Serve/Have Served

The committee that worked with county staff to develop the first Hillside Ordinance for Napa County; The committee to develop the original Winery Definition Ordinance for Napa County; The committee to develop the County's policies and ordinance for farm worker housing in the agricultural zones; The committee that worked with county staff to develop policy and the ordinance for recreational use in the AWOS; Member of the County's APAC committee.

## Public Actions that may impact Credit Rating (List all court or other public administration actions impacting your credit rating within the past ten (10) years)

None

## Electronic Signature Agreement

I meet the criteria required to serve in this position.

☒ Yes ☐ No

I declare under penalty of perjury that the foregoing is true and correct.

☒ Yes ☐ No

## Please Agree with the Following Statement

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

☒ I Agree

## Electronic Signature (First M. Last)

Lucio E. Perez

Lucio E Perez

**Date**

---

January 17, 2023

"Cio" Lucio Perez  
[REDACTED]  
St. Helena, CA 94574  
[REDACTED]  
[REDACTED]

## **EDUCATION:**

St. Helena High School (1965-1970)  
High School Diploma 1970  
Stanford University (1970-1971)  
University of California, Davis (1971-1974)  
BS Degree in Viticulture  
BS Degree in Oenology (Enology)

## **WORK EXPERIENCE:**

Beringer Brothers Winery (1974-1976)  
Responsibilities – Develop receiving nursery for hardening green growing bench graphs; manage logistics for delivery of plant materials to new planting sites; supervise new planting marking crew; develop pesticide application protocols and pesticide use reporting.

Walsh Vineyard Management (1976-1978)  
Chiles Valley Vineyard Manager

Ken Cairns Vineyard Management (1978-1981)  
Vineyard Manager (multiple vineyard locations – Calistoga/St. Helena)

Glendale Ranch Vineyards (1981-Present)  
Vineyard and Ranch Manager

L Perez & Sons (1976-Present/Family-Owned Vineyards)  
Managing partner

## **COMMUNITY INVOLVEMENT**

- Board of Directors, Jack L. Davies Agricultural Fund, January 2015 to present
- Board of Directors, Save Napa Valley Foundation, 2019 to present
- Board of Directors, Napa County Farm Bureau, 1988 through March 2018
- President, Napa County Farm Bureau, 1994 to 1997
- Chair, Land Use and Taxation Committee, 2014 to March 2018
- Board of Directors, California Farm Bureau Federation, representing the Counties of Marin, Napa and Sonoma, 2004 to 2010
- Finance Committee, California Farm Bureau Federation, 2010

I was also an active participant in:

- the campaigns promoting Measure J and later Measure P
- the development and adoption of the first Hillside Ordinance for Napa County
- the development and adoption of the *original* Winery Definition Ordinance for Napa County
- the development of the County's policies and adoption of the County Ordinance for farm worker housing in the Agricultural Preserve
- the campaign to pass the growers' assessment for Napa County's farm worker housing, and the renewal of the assessment



---

**Application for Appointment to Board, Commission, Committee, Task Force or Position**

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

**Public Records Act**

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

**Form 700 Conflict of Interest Code**

[California Fair Political Practices Website](#)

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

**Which Boards would you like to apply for?**

Planning Commission: Submitted

**Category of Membership for Which You Are Applying**

Commissioner

---

**Profile**

Heather

First Name

Phillips

Last Name

[REDACTED]

Email Address

[REDACTED]

Home Address

Suite or Apt

Napa

City

CA

State

94558

Postal Code

**Which supervisorial district do you reside in? \***

☒ District 2

To find your supervisorial district go to <https://www.countyofnapa.org/2051/Find-my-supervisor-and-district> and enter your address.

[REDACTED]

Primary Phone

Phillips Family Farming LLC

Employer

Administrative

Job Title

Winegrape Grower/Vintner

Occupation

## Education/Experience

Education: Pitzer College Psychology/Marketing BA 1990 Work Experience: 1990-1992 Sam & Libby, San Carlos CA Marketing Assistant 1992-1994 The Nature Company, Berkeley CA Marketing Assistant 1994-2005 LucasArts Entertainment Company, San Rafael CA Public Relations Manager 2006-Present Phillips Family Farming LLC, Napa CA Administration

## Name and occupation of spouse within the last 12 months, if married. (For conflict of Interest purposes)

Bruce Phillips, Winegrape Grower/Vintner

## Resume

Upload a Resume

Letter of Recommendation or Supplemental Attachments

## Professional or occupational license, date of issue, and expiration including status

## References: Provide names and phone numbers of 3 individuals who are familiar with your background.

Andy Beckstoffer, [REDACTED] Brad Wagenknecht, [REDACTED] Jen Putnam, [REDACTED]

## Community Participation

### Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.

I am interested in serving on the Planning Commission as I feel that as a winegrape grower and with knowledge of the wine industry I could provide an added perspective to the current Commission.

### Nature of activity and community location

## Other County Board/Commission/Committee on Which You Serve/Have Served

Napa County Planning Commission, District 1 Commissioner Wildlife Commission Leadership Napa Valley Class 19 di Rosa Art Preserve, Board Seat 2002-2006

Public Actions that may impact Credit Rating (List all court or other public administration actions impacting your credit rating within the past ten (10) years)

---

---

**Electronic Signature Agreement**

I meet the criteria required to serve in this position.

---

☒ Yes ☐ No

I declare under penalty of perjury that the foregoing is true and correct.

---

☒ Yes ☐ No

**Please Agree with the Following Statement**

---

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

---

☒ I Agree

**Electronic Signature (First M. Last)**

---

Heather Phillips

**Date**

---

3/3/23



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0316

---

**TO:** Board of Supervisors

**FROM:** Brian Bordona, Interim Director of Planning, Building and Environmental Services

**REPORT BY:** Trevor Hawkes, Supervising Planner

**SUBJECT:** Annual Report to the Board of Supervisors, Office of Planning and Research & HCD Regarding the 2008 Napa County General Plan

---

### **RECOMMENDATION**

Interim Director of Planning, Building and Environmental Services requests acceptance of the annual report regarding the status of the Napa County General Plan and progress in its implementation as required by Government Code Section 65400.

### **EXECUTIVE SUMMARY**

Section 65400 of the Government Code requires planning agencies to provide an annual report to their legislative body (i.e. the Board of Supervisors), the State Department of Housing and Community Development (HCD), and the Governor's Office of Planning and Research (OPR). The report is required to address the status of the 2008 general plan and progress in its implementation. HCD provides forms that must be used for the housing element portion of the report and Section 65400(a)(2)(B) requires the report to be considered at a public meeting where members of the public are allowed to provide oral testimony and written comments.

### **PROCEDURAL REQUIREMENTS**

1. Staff Report
2. Public Comment
3. Motion, second, and vote on item.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

Is it Mandatory or Discretionary?	Mandatory
Consequences if not approved:	The County would not be able to submit our annual report to HCD and OPR
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit
Additional Information	Multiple Strategic Pillars addressed in completing General Plan action items.

## **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: No action is requested and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

The Napa County General Plan was comprehensively updated in June 2008 and the County's Housing Element was last updated and certified in December 2014 in accordance with Government Code Sections 65580 et seq. The Circulation Element was updated in 2019. On January 24, 2023, the Napa County Board of Supervisors adopted an update to the County's General Plan Housing Element for the Sixth Cycle Planning Period (2023-2031) with certification to take place in the first half of 2023. An update to the County's Safety Element is currently in process and staff plans to bring the update to the County Planning Commission and Board of Supervisors in the first half of 2023 for adoption. All chapters or "elements" of the General Plan include goals, policies, and implementation tasks ("action items" and "programs") that collectively guide land use decision making for unincorporated Napa County.

Section 65400 of the Government Code requires planning agencies to prepare an annual report regarding the status of their general plan and its implementation, and to provide copies of the report to their legislative body (i.e. the Board of Supervisors), the State Department of Housing and Community Development (HCD), and the Governor's Office of Planning and Research (OPR). HCD provides a form that must be used for the Housing Element portion of the report which contains a Regional Housing Needs Allocation (RHNA) progress report section, and a section on implementation of Housing Element programs. Also required, but contained in a separate table, is a progress report on all other action items in the General Plan.

### **Regional Housing Needs Allocation Progress Report**

In 2014, HCD certified the County's Housing Element commencing with implementation of the Fifth Cycle of the RHNA program, with the reporting period running from 2015 to 2023 (the 'planning period' is 2014-2022). During this period the County has been assigned a RHNA of 180 total housing units divided among four income categories as follows: 51 very low income units; 30 low income units; 32 moderate income units; and 67 above moderate income units. Starting in 2018, submission to the State occurs electronically. HCD provides the Annual Progress Report (APR) form in an auto-populating, jurisdiction-specific spreadsheet. Attached to this report is a summary of the totals for this year.

The County issued 24 building permits to develop dwelling units in 2022, a decrease of two (2) from reporting year 2021. The 26 permits consisted of 9 primary (or 'main') single family detached (SFD) dwelling units, all of which are for traditional site built custom residences. For purposes of reporting to the State site built custom SFD's count towards the County's share of 'above moderate' income level dwelling units. 14 of the 24 permits were for Second Units/Accessory Dwelling Units (ADU's). Units where no rent, or below market rate rents will

be charged qualify as non-deed restricted 'low' income, 'very low' income, and 'moderate' income units. For the 14 ADU's issued permits in reporting year 2021, four (4) qualify as 'very low', four (4) qualify as 'low', four (4) qualify as 'moderate', and two (2) qualify as 'above moderate'. The county also permitted one modular unit in the 2022 reporting year, which counts towards the county's 'moderate' income level.

The RHNA reporting period for the Fifth Cycle occurring between 2015 through 2023. Based on the survey results and corresponding revised totals, the County has met the RHNA goal in the 'above moderate' and 'moderate' categories, and is making progress in the two (2) lower income categories as follows:

- Above Moderate: 67 units assigned - 112 permits issued; 0 units remaining
- Moderate: 32 units assigned - 59 permits issued; 0 units remaining
- Low: 30 units assigned - 14 permits issued; 16 units remaining
- Very Low: 51 units assigned - 14 permits issued; 37 units remaining

Staff had anticipated that the 140 affordable units approved as a part of the Napa Pipe Specific Plan would be constructed during the Fifth Cycle, which would have more than met our current RHNA obligations. Those units will likely be credited to the County during the Sixth Housing Cycle.

#### General Plan Implementation

The attached General Plan Implementation Table reports on status on the 76 action items that are separate from Housing Element programs. The majority of these action items are either completed, ongoing, or in progress. The Board's direction on the Strategic Plan also furthers the goals and policies of the General Plan.

#### Public Input

Government Code Section 65400(a)(2)(B) requires the report to be considered at a public meeting where members of the public are allowed to provide oral testimony and written comments. While no action by the Board of Supervisors is requested, the Board should accept oral and written comments from the public, and Staff would be happy to answer questions.

Staff anticipates filing the report with HCD and OPR on March 31, 2023.



A Tradition of Stewardship  
A Commitment to Service

**Planning, Building & Environmental Services**

1195 Third Street, Suite 210  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)

**Brian Bordona**  
Interim Director

March 31, 2023

Mr. Samuel Assefa, Director  
California Office of Planning and Research  
P.O. Box 3044  
Sacramento, CA 95812-3044

**RE: 2022 Annual Report on Napa County General Plan and Housing Element**

Dear Mr. Assefa,

Attached, please find the annual General Plan status report for 2022, including (a) the Housing Element report, and (b) a table of implementation action items from other elements in Napa County's General Plan. In accordance with statute, the Napa County Board of Supervisors were provided the report for their regular meeting of March 14, 2023, to ensure public input was received as well as to allow time for Board discussion.

Since the adoption of the Napa County General Plan in 2008, the County has maintained a comprehensive list of implementation action items. The overarching theme of the General Plan is a long standing commitment to preservation of agricultural lands for agricultural land uses, while planning for residential and non-agricultural growth within urbanized areas. The County works diligently with the cities and town of Napa County to promote and support housing development within the cities, town and unincorporated urbanized areas of Napa County.

Attached are the Housing Element and General Plan implementation tables listing all policies and action items within the Napa County General Plan. The tables are organized by element with status provided in the right hand column for each policy and action item. The General Plan implements mitigation measures from the General Plan Environmental Impact Report, since many of the mitigation measures were adopted as policies or action items. Napa County's General Plan is also implemented through the Napa County Strategic Plan 2019-2022, which guides and informs near term priorities and decision making.

Napa County adopted an update to the County's Housing Element on January 24, 2023, for the Sixth Cycle planning period (2023 – 2031) and is in the process of adopting an update to the County's Safety

Element. Subsequent to certification of the Housing Element with the Department of Housing and Community Development the policies and action items for both of the updated General Plan Elements will be incorporated into the 2023 report as the county continues our ongoing efforts to implement our General Plan.

Should you have any questions, please contact Trevor Hawkes at [trevor.hawkes@countyofnapa.org](mailto:trevor.hawkes@countyofnapa.org) or by phone at 707-253-4388.

Regards,

*Trevor Hawkes for*

Brian Bordona, Interim Director  
Director of Planning, Building, and Environmental Services

cc:

State Office of Housing and Community Development, Housing Policy Department  
Napa County Board of Supervisors  
Napa County Planning Commission  
David Morrison, Napa County Interim CEO



**2022 NAPA COUNTY GENERAL PLAN UPDATE**  
**IMPLEMENTATION ACTION ITEMS**  
(Updated: March 2023)

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
<b>Agricultural Preservation and Land Use Element</b>				
Action Item AG/LU-2.1	Amend County Code to reflect the definition of “agriculture” as set forth within this Plan ensuring that wineries and other production facilities remain as conditional uses except as provided for in Policy AG/LU-16, and that marketing activities and other accessory uses remain incidental and subordinate to the main use.	A \$	PBES	Changes to “marketing” adopted 2010; Changes to “agriculture” adopted in May 2017.
Action Item AG/LU-7.1	Work with interested stakeholders to undertake an evaluation of new voluntary approaches to protecting agriculture, including implementation of a “Super Williamson Act” program, a conservation easement program or other permanent protections, and programs promoting the economic viability of agriculture.	Ongoing \$	PBES	Ongoing
Action Item AG/LU-10.1	Maintain a data base of all wineries including their production capacity, marketing events and other characteristics that could influence analysis of cumulative effects or the winery’s effect on neighbors.	A \$	PBES	Database maintained as ongoing part of PBES work program
Action Item AG/LU-15.5.1	The County will prepare and adopt guidelines and regulations to assist in the determination of the appropriate type and scope of agricultural buffer areas needed in circumstances that warrant the creation of such buffer.	B \$→\$\$\$	PBES	Not yet programmed
Action Item AG/LU-16.1	Consider amendments to the Zoning Ordinance defining “small wineries,” a “small quantity of wine,” “small marketing events,” and “mostly grown on site,” and establishing a streamlined permitting process for small wineries which retains the requirement for a use permit when the winery is in proximity to urban areas.	A \$	PBES	Work commenced as part of the APAC/PC/BOS process in 2013/2014. Small winery ordinance adopted in March 2020. Micro Winery Ordinance adopted in April 2022.
Action Item AG/LU-30.1	Develop a Workforce Housing Ordinance, including revisions to the current Inclusionary Housing Ordinance, to define workforce housing and establish additional workforce and inclusionary housing requirements for all multi-family housing proposals consisting of eight or more units constructed in the unincorporated County. Such an ordinance could also require on-site workforce housing in place of in-lieu fees for any large commercial or institutional projects constructed outside of areas where housing would be inconsistent with the applicable airport land use compatibility plan.	Concurrent with 2008-09 Housing Element Update \$→\$\$\$	PBES CIA	Pilot program adopted in 2010
Action Item AG/LU-33.1	Adopt local guidelines or zoning code definitions to clarify the distinction between single-family residences and commercial short-term guest accommodations, specifying the uses and ownership or rental arrangements associated with each. Also, analyze the prevalence of extremely large residences, and determine whether single family residences above a certain size should require environmental analysis.	A \$\$	PBES	Definition of commercial use ordinance adopted Dec. 2009.  Residential building envelope ordinance is in process including stakeholder outreach and public hearings with further Board consideration anticipated in the summer of 2022.
Action Item AG/LU-43.1	Consider amendments to the Zoning Code to allow additional commercial, residential, and mixed uses in the areas currently zoned for commercial use in the Spanish Flat, Moskowite Corner, and southern Pope Creek areas in order to	B	PBES	Concession agreements have been completed for four locations: Steel

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
	complement recreation activities at Lake Berryessa.	\$		Canyon, Spanish Flat, Monticello Shores and Berryessa Point.
Action Item AG/LU-45.1	Review and revise sections of the Napa County Code that provide the list of land uses permitted on existing commercially zoned parcels to encourage neighborhood-serving commercial uses and new limited accessory dwellings where appropriate.	B \$	PBES	Accessory dwellings now permitted in CL and CN. Additional uses not yet programmed
Action Item AG/LU-48.1	Review zoning code requirements for Home Occupation permits, and update those requirements to provide greater flexibility in situations where there will be no off-site impacts. For example, consider situations in which the use of legal, accessory structures could be permitted, or where home occupations could employ workers other than a single owner/proprietor.	B \$	PBES	Not yet programmed however cottage food ordinance adopted in early 2013 will allow one employee
Action Item AG/LU-49.1	Refer General Plan land use changes, proposed rezonings, and proposed developments in Airport Approach Zones to the Napa County Airport Land Use Commission for review and comment.	Ongoing \$	PBES	Ongoing: This referral is routinely accomplished by staff and required by State law
Action Item AG/LU-54.5.1	Develop a definition of 'formula businesses' and amend County Code to ensure compatibility with ordinances related to this issue in Calistoga and St. Helena.	B \$	PBES	Not yet programmed
Action Item AG/LU-94.1 (MM 4.2.1)	Prior to approving non-industrial development, the County shall adopt development standards for the Pacific Coast/Boca and Napa Pipe sites which shall include, but may not be limited to, buffering and visual screening from existing industrial uses and Syar Quarry, design features that include physical buffers (e.g., vegetation, landscape features, or walls in unique circumstances), building placement and orientation in a manner that physically separates these sites from incompatible operations of adjacent uses (e.g., truck traffic, odors, stationary noise sources), and implementation of other measures to address noise and vibration. Standards for the Napa Pipe site shall ensure conformance with the Napa County Airport Land Use Compatibility Plan.	A \$	PBES	Standards will be developed as part of site specific planning and prior to approval of non-industrial uses on these sites; Design Guidelines for the Napa Pipe Project adopted in 2015.
Action Item AG/LU-107.1	Undertake revisions to the zoning ordinance (County Code Title 18), simplifying and reorganizing to the extent feasible so that members of the public, applicants, planners, and decision makers can more easily access information and understand code requirements.	A \$\$\$	PBES	Ongoing and programmed for FY 2022/2023 and in future fiscal years
Action Item AG/LU-114.1	Undertake a planning effort to re-evaluate areas of Angwin designated Urban Residential after June 2010, with the objective of re-designating areas to better reflect land uses existing or authorized at that time.	A \$\$\$	PBES	Changes adopted in 2009 and Dec. 2017
Action Item AG/LU-119.1	Complete the Review Following Census called for in Section (3) of Policy AG/LU-119 during each update to the Housing Element required by State law.	Subsequent to 2023 Housing Element Adoption \$	PBES CIA	Review planned in early 2023
Action Item AG/LU-125.1	Consider amendments to the Zoning Code that would reduce the number of zoning districts in which new churches and religious institutions may be located and provide siting criteria as part of the use permit process.	B \$	PBES	Not yet programmed

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
<b>Circulation Element</b>				
Action Item CIR-10.1	County staff shall participate in the periodic updates of the Napa County Transportation and Planning Agency's Strategic Transportation Plan (STP), and use that forum for consideration and development of innovative strategies related to the movement of people and services without increasing the use of private vehicles. The County shall seek input from experts in sustainability, smart growth, and land use planning in developing potential new strategies.	Ongoing \$	PBES PW NCTPA	Ongoing as a part of regular planning process; consultation with experts as needed. Circulation Element Update completed in Feb. 2019. RSS update planned for adoption in April 2023.
Action Item CIR-11.1	The County shall adopt, periodically review, and revise as appropriate specific road and street standards for County roads. These standards shall include overall right-of-way widths, pavement widths, lane and shoulder widths, and other design details. The County's roadway standards shall be developed in consultation with the County Fire Marshal, County Public Works, and others to ensure adequate widths for safety and emergency access and evacuation.	Ongoing \$	PW PBES NC Fire	The road and street standards (RSS) were comprehensively updated in 2011; Additional updates to comply with State fire hazard standards was completed in 2016, 2017, 2019 and 2021. County will update RSS following adoption of the new Fire Safe Regulations.
Action Item CIR-13.1	Work with the Napa County Transportation and Planning Agency and other agencies to fund and implement the improvements listed in Policy CIR-13.	Ongoing \$\$\$	PW NCTPA	Ongoing; Circulation Element update completed in Feb. 2019. Devlin Road has been completed as a local reliever road to traffic on Hwy 29 in the American Canyon area and the County is looking at a Newell Road extension.
Action Item CIR-16.1	Work with the Napa County Transportation Authority, adjacent counties, the Metropolitan Transportation Commission, and the California Department of Transportation to monitor traffic volumes and congestion on the roadway system in Napa County.	Ongoing \$	PW NCTPA	Ongoing monitoring and coordination with other agencies; Circulation Element Update completed in Feb. 2019
Action Item CIR-19.1 (MM 4.4.1c)	In cooperation with the Napa County Transportation and Planning Agency, develop a countywide traffic impact fee to address cumulative (i.e., not project-specific) impacts associated with new employment. Fees shall be used to pay for the cost of network improvements listed in Policy CIR-13 as well as other transportation improvements such as transit.	A  \$→\$\$\$	PW PBES NCTPA: Cities of: Am Cyn, Calistoga Napa, St. Helena, and Town of Yountville	Circulation Element Update completed in Feb. 2019. Travel behavior survey was completed in 2014. TIF has been put on indefinite hold due to COVID economic impacts.
Action Item CIR-22.1	The County shall work with the incorporated cities and town, the Napa County Transportation and Planning Agency, and Caltrans to develop a coordinated approach to roadway design to enhance driver and pedestrian safety, particularly	Ongoing	PW PBES NCTPA	Ongoing; Complete Streets Policy adopted 2017. Highway 29 Corridor

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
	for children and senior citizens.	\$	all cities referenced in CIR-2.9.1	Study plan completed in 2014 by NCTPA and an update to that plan was completed in 2022.
.Action Item CIR-26.1	The County will work with the Napa County Transportation and Planning Agency to conduct regular reviews of public transit use and opportunities for its expansion in Napa County.	Ongoing \$	PW NCTPA	Ongoing; Circulation Element Update completed in Feb. 2019
Action Item CIR-26.2	The County shall establish targets for interim years to enable the County to monitor progress towards its objective of reducing the percentage of work trips that are by private, single occupant vehicles to 50%.	Ongoing \$	PW PBES NCTPA as part of its Strategic Trans. Plan Update	Target for 2020 will be inherent in the final Climate Action Plan (draft is being revised) and progress will be monitored as GHG emissions are monitored (See Action Item CON CPSP-2). PBES & DPW completed the update of its Traffic Impact Study Guidelines as well as established criteria for evaluating Vehicle Miles Traveled (VMT) required by SB 743.
Action Item CIR-28.1	Work with major employers and the Napa County Transportation and Planning Agency to offer incentives for carpooling and the use of cost-efficient ground transportation alternatives to the private automobile.	A \$	PW NCTPA CIA WIB	Same as Action Item CIR-26.2 above
Action Item CIR-28.2	Adopt hours of operation/schedules for County meetings (e.g., Planning Commission and Board of Supervisors) which are coordinated with public transit availability in order to make it easier for residents to use transit when doing business with the County. The County shall encourage schools and other public agencies to do the same.	Ongoing \$	PW PBES NCTPA	Ongoing
Action Item CIR-32.1 (MM 4.4.1e)	Update the County Zoning Code to include requirements and standards related to carpooling, bicycling, and transit amenities in development projects.	A \$	PBES	Programmed to be evaluated with the Climate Action Plan development & Zoning Ordinance Update currently in progress. Addressed in Circulation Element Update in Feb. 2019
<b>Community Character Element</b>				
Action Item CC-3.1	Examine the County's sign ordinance and determine whether changes are needed to strike an appropriate balance between sign size and legibility.	A \$	PBES	Revised ordinance adopted October 2008
Action item CC-10.1	Undertake a regular review of the viewshed protection program to ensure its effectiveness and consider adding protections for views from Lake Berryessa to the program.	Ongoing \$	PBES	Initial review completed Summer 2010; Ongoing evaluation being conducted by staff during project review; Second part not yet programmed
Action Item CC-19.1	In partnership with interested historic preservation organizations, seek funding to undertake a comprehensive inventory of the County's significant cultural and historic resources using the highest standard of professional practices.	Ongoing \$→\$\$\$	PBES Stakeholders	Not yet programmed

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
Action Item CC-19.2	Consider amendments to the County zoning and building codes to improve the procedures and standards for property owner-initiated designation of County Landmarks, to provide for the preservation and appropriate rehabilitation of significant resources, and to incorporate incentives for historic preservation.	A \$	PBES	Action Item completed 2012. Additional incentives may be pursued in future years
Action Item CC-23.1 (MM 4.12.1)	In areas identified in the Baseline Data Report as having a significant potential for containing significant archaeological resources, require completion of an archival study and, if warranted by the archival study, a detailed on-site survey or other work as part of the environmental review process for discretionary projects.	Ongoing \$	PBES	Ongoing implementation by staff during project review
Action Item CC-23.2 (MM 4.12.1)	Impose the following conditions on all discretionary projects in areas which do not have a significant potential for containing archaeological or paleontological resources: <ul style="list-style-type: none"> <li>• “The Planning Department shall be notified immediately if any prehistoric, archaeologic, or paleontologic artifact is uncovered during construction. All construction must stop and an archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards in prehistoric or historical archaeology shall be retained to evaluate the finds and recommend appropriate action.”</li> <li>• “All construction must stop if any human remains are uncovered, and the County Coroner must be notified according to Section 7050.5 of California’s Health and Safety Code. If the remains are determined to be Native American, the procedures outlined in CEQA Section 15064.5 (d) and (e) shall be followed.”</li> </ul>	Ongoing \$	PBES	Ongoing: implemented by staff during project review and included as a standard condition of approval
Action Item CC-28.1	Amend the Zoning Ordinance to provide a discretionary process such as a use permit by which owners may seek approval consistent with Policy CC-28 for an additional incentive for historic preservation. The process shall preclude reuse of buildings which have lost their historical integrity and prohibit new uses that are incompatible with the historic building or that require inappropriate new construction.	A \$→\$\$\$	PBES	Same as Action Item CC-19.2 above
Action Item CC-32.1 (MM 4.14.2b)	The County shall review and update as necessary its public works standards for street lighting to require the installation of fixtures which reduce the upward or sideways spillover of light consistent with the requirements of state law.	B \$	PW	Not yet programmed; will include next time new lights are added.
Action Item CC-45.1 (MM 4.7.7)	The County shall use avigation easements, disclosure statements, and other appropriate measures to ensure that residents and businesses within any airport influence area are informed of the presence of the airport and its potential for creating current and future noise.	Ongoing \$	PW (Airport) PBES	Implemented and Ongoing by Public Works: also a requirement of adopted ALUC Compatibility Plans implemented by staff during project reviews
Action Item CC-53.1	Work with the BAAQMD to disseminate information regarding regulations, monitoring, and enforcement for noxious odors.	Ongoing \$	PW PBES EH	Ongoing as needed
<b>Conservation Element</b>				

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
Action Item CON-NR-1	Amend the Conservation Regulations to offer incentives such as a streamlined review process for new vineyard development and other projects that incorporate environmentally sustainable practices that avoid or mitigate significant environmental impacts.	A \$→\$\$\$	PBES	Not yet programmed.
Action Item CON NR-2 (MM 4.6.1a)	The County shall seek grant funding and other support and establish a fisheries monitoring program(s) consistent with the efforts of the Watershed Information Center and Conservancy of Napa County in order to track the current condition of special-status fisheries and associated habitats in the County's watersheds. Programs will include tracking the effectiveness of BMPs, mitigation measures and ongoing restoration efforts for individual projects in the watersheds and the implementation of corrective actions for identified water quality issues that are identified as adversely impacting fisheries. Monitoring programs shall be conducted in coordination with the State and Regional Water Boards, California Department of Fish and Game, U.S. Fish and Wildlife Service, and National Oceanic and Atmospheric Administration National Marine Fisheries Service to the extent necessary.	Ongoing \$→\$\$\$	PW FCWCD WICC	State and local funding has been obtained by the Napa County RCD to continue a local fisheries monitoring program. \$55k in partial base-funding for the work was provided directly by the County through a contract between FCWCD and the RCD for FY 16/17 thru FY 18/19. Other sources of local funding include the Gasser Foundation, Napa County Wildlife Conservation Commission and private donations. State funding based upon competitive grants year to year. Future long-term funding to support the program is needed. With financial help via a grant from EPA, Public Works and FCWCD staff completed development of a BMP tracking tool (ITAS) in Dec 2015 (also see b above) but the ITAS is no longer in use.  Groundwater Sustainability Plan (GSP) calls for establishment of a Technical Advisory Group (TAG) and development of a workplan on "Interconnected Surface Water and Groundwater Dependent Ecosystems" which will call upon expertise of TAG and RCD.
Action Item CON NR-3 (MM 4.6.5b)	The County shall amend its Local Procedures for Implementing CEQA to require gravel removal projects to result in no net adverse effects to stream temperature, bed attributes, or habitat necessary for native fisheries health. This may include restoration and improvement of impacted habitat areas (e.g., gravel areas and pools and woody debris areas).	B \$	PBES	Not yet programmed
Action Item CON NR-4 (MM 4.6.5c)	The County shall adopt an ordinance that prohibits construction activities within the channel of any waterway identified to contain existing or potential spawning habitat for special-status fish species during limited time periods of spawning activities.	A \$	PBES	Not yet programmed, however objective is effectively accomplished via State and federal regulatory requirements
Action Item CON NR-5	The County shall maintain and update the Biological Resources and Fisheries chapters of the Baseline Data Report as necessary to provide the most current data and mapping. Updates shall be provided online and made available for review at the Conservation, Development and Planning Department. The following specific data sets and maps shall be updated as needed: a) The County's Biological Database (through the use of the California	Ongoing	PBES	County maintains biological database (a) that is updated monthly with data received from California Natural Diversity Database (CA Fish & Wildlife) and from project bio-surveys. Updates to databases and mapping of sensitive

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
	<p>Department of Fish and Game's California Natural Diversity Database (CNDDDB) and information from the California Native Plant Society (CNPS)), including the addition of biological data to expand and improve the accuracy of the database and its usefulness to the public;</p> <p>b) Databases and mapping of sensitive biotic communities and habitats of limited distribution;</p> <p>c) Databases and mapping of oak woodlands and related sensitive biotic communities;</p> <p>d) Databases and mapping of riparian woodlands and related sensitive biotic communities;</p> <p>e) Databases and mapping of sloughs and tidal mudflats and related sensitive biotic communities.</p>	\$		<p>biotic communities and habitats of limited distribution and others (b-e) are based on vegetation and land-cover data (primarily the ICE Vegetation layer). GIS staff continually update database layers as a major component of GIS Unit's work program.</p> <p>Groundwater Sustainability Plan (GSP) calls for establishment of a Technical Advisory Group (TAG) and development of a workplan on "Interconnected Surface Water and Groundwater Dependent Ecosystems (GDE)" which will call upon expertise of TAG and the Resource Conservation District. GSP contains quite a bit of info re GDE identification.</p>
Action Item CON NR-6	The County shall adopt protocols to be followed, including a methodology for analyzing the need for buffers, and establish setbacks where discretionary projects are proposed on parcels that may contain sensitive biotic communities or habitats/communities of limited distribution or sensitive natural communities	<p>A</p> <p>\$→\$\$\$</p>	PBES	Protective buffers for discretionary projects are currently established via biological studies, consultant recommendations and the Clean Water Act 401 certification process for applicable projects.
Action Item CON NR-7	<p>The County shall adopt a voluntary Oak Woodland Management Plan to identify and mitigate significant direct and indirect impacts to oak woodlands. Mitigation may be accomplished through a combination of the following measures:</p> <p>a) Conservation easement and land dedication for habitat preservation;</p> <p>b) Payment of in-lieu fees;</p> <p>c) Replacement planting of appropriate size, species, area, and ratio.</p>	<p>B</p> <p>\$</p>	PBES	Voluntary Oak Woodland Management Plan was adopted in 2010. Additional work not yet programmed.
Action Item CON WR-1	Develop basin-level watershed management plans for each of the three major watersheds in Napa County (Napa River, Putah Creek, and Suisun Creek). Support each basin-level plan with focused sub-basin (drainage-level) or evaluation area-level implementation strategies, specifically adapted and scaled to address identified water resource problems and restoration opportunities. Plan development and implementation shall utilize a flexible watershed approach to manage water resource quality and quantity. The watershed planning process should be an iterative, holistic, and collaborative approach, identifying specific drainage areas or watersheds, eliciting stakeholder involvement, and developing management actions supported by sound science that can be easily implemented.	<p>B</p> <p>\$\$\$</p>	<p>PBES</p> <p>WICC</p> <p>FCWCD</p>	<p>Tiering from regional water management watershed plans (IRWM Plans) currently under development, local basin-level plans for the Napa River, Putah Creek, and Suisun Creek basins could be developed as staffing resources and funding allow. The County continues to seek opportunities to support these planning objectives; limited grant funding is presently available from federal and state sources to support watershed management planning. Identification of additional local funding would be needed to achieve these objectives in the near-term.</p> <p>County/GSA is pursuing implementation of the CA Environmental Flows</p>

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
				Framework (CEEFF) in the Napa River watershed which would involve collaboration with scientific entities and provide for opportunities for future grant funding.
Action Item CON WR-3	Update the Conservation Regulations to establish an appropriate protective buffer (e.g., a special protection zone) in areas that drain toward any intake structure associated with the County's sensitive domestic water supply drainages, requiring specific development and performance measures to protect water quality and balance property owners' ability to use their land and stipulating that discretionary projects must be located outside of the protective buffer wherever this is feasible.	B \$	PBES	Initial analysis completed; Conservation Regulation update completed May 2019
Action Item CON WR-4	Implement a countywide watershed monitoring program to assess the health of the County's watersheds and track the effectiveness of management activities and related restoration efforts. Information from the monitoring program should be used to inform the development of basin-level watershed management plans as well as focused sub-basin (drainage-level) implementation strategies intended to address targeted water resource problems and facilitate restoration opportunities. Overtime, the monitoring data will be used to develop overall watershed health indicators, and as a basis of employing adaptive watershed management planning.	B \$→\$\$\$	PBES PW WICC	Ongoing: Joint City/County study plan for Milliken and Henessey drainages completed by Public Works in 2018. The collection of water sampling data is currently ongoing. County will be re-contracting with City for an additional 5 years of monitoring starting in FY22/23.  GSP summarizes numerous monitoring plans/activities/reporting and describes 9 GSP-related monitoring networks including additional monitoring needs to address data gaps.  Out-migration fisheries monitoring by the RCD continues. \$55k in funding per year from FCWCD was provided to RCD to support this work for FY 16/17 thru FY 18/19. Permanent funding is needed for long-term fisheries monitoring
Action Item CON WR-5 (MM 4.13.3.1a)	Identify, map, and disseminate information on groundwater recharge areas, to the extent feasible, and provide educational materials and resource information on ways of reducing and limiting the development of non-pervious surfaces in those areas.	A \$→\$\$\$	PW FCWCD WICC PBES	Groundwater consultant studies completed & presented to the Board in February 2011. Follow-up analysis of recharge completed in 2014. The WICC has developed an interactive groundwater educational section on the WICC website ( <a href="http://www.napawatersheds.org/groundwater">www.napawatersheds.org/groundwater</a> ), which is updated annually. Additional information related to groundwater recharge contained in the GSP (2022). Public outreach will be provided through the WICC program/PBES and through a



Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
Action Item CON WR-6 (MM 4.13.3.1a)	Establish and disseminate standards for well pump testing and reporting and include as a condition of discretionary projects that well owners provide to the County upon request information regarding the locations, depths, yields, drilling and well construction logs, soil data, water levels and general mineral quality of any new wells.	A  \$→\$\$\$	EH PW PBES	contract with the Napa County RCD.  Pump test standards were developed as part of the update to the County's Water Availability Analysis (WAA) Policy adopted in May 2015. This Policy is now being implemented by PBES as part of the development permitting process and has morphed over the years from requiring well owners to provide data upon request to more modern Conditions of Approval requiring data to be provided regardless of being requested.  Additional recommendations relating to aquifer testing have been incorporated in a number of reports since at least 2016 through the GSP (2022). Following completion of the Northeast Napa Management Area study and presentation of the BAR Amendment to the BOS, the BOS approved proceeding with that recommendation and also updating the GW Ordinance.
Action Item CON WR-7	The County, in cooperation with local municipalities and districts, shall perform surface water and groundwater resources studies and analyses, and work towards the development and implementation of an integrated water resources management plan (IRWMP) that covers the entirety of Napa County and addresses local and state water resource goals, including the identification of surface water protection and restoration projects, establishment of countywide groundwater management objectives and programs for the purpose of meeting those objectives, funding and implementation.	B  \$\$\$	PBES PW EH FCWCD	The County completed the Napa County Groundwater Monitoring Plan (Jan 2013/LSCE) and a Report on Updated Hydrogeologic Conceptualization and Characterization of Conditions (Jan 2013/LSCE), as well as the Napa County CASGEM Plan (Sept 2011). Community outreach continued and the County's voluntary well monitoring network is expanding. A Local Groundwater Assistance Grant (LGA) was completed in March 2016, which supported the installation of 5 pairs of nested wells (2014) along the Napa River from Napa to St. Helena to assess the interaction of surface and groundwater. The wells are monitored as a part of the monitoring program. Additional Prop 68 grant funds were awarded to the GSA for installation of 4 more GS/SW monitoring sites (planned installation 2022). IRWM Plans for the Napa River, Suisun Creek and Putah Creek basins have been adopted by their respective governing committee(s).

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
				Water resource projects that benefit Napa County are included in both plans. Grant applications for Prop 84 funds have been awarded for a number of projects and Prop 1 funding is being explored with assistance from staff, local and regional partners and consultants for eligible projects listed in both IRWM Plans. Over \$7 million in IRWMP funding for programs and projects have directly and indirectly benefited communities in Napa County. The IRWMP process and plans establish a long-term management strategy for water resource in the County. To fulfill the objectives in the plans, staff from PW, PBES & FCWCD will continue to coordinate at a local level to effectively contribute to this and other regional efforts in the Bay Area and Sacramento River IRWMP Funding Area opportunities
Action Item CON WR-8 (MM 4.11.5a)	The County shall monitor groundwater and interrelated surface water resources, using County-owned monitoring wells and stream and precipitation gauges, data obtained from private property owners on a voluntary basis, data obtained via conditions of approval associated with discretionary projects, data from the State Department of Water Resources, other agencies and organizations. Monitoring data shall be used to determine baseline water quality conditions, track groundwater levels, and identify where problems may exist. Where there is a demonstrated need for additional management actions to address groundwater problems, the County shall work collaboratively with property owners and other stakeholders to prepare a plan for managing groundwater supplies pursuant to State Water Code Sections 10750-10755.4 or other applicable legal authorities.	Ongoing  \$→\$\$\$	PW EH PBES	See CON WR-7 above. Groundwater consultant studies completed and presented to the Board in March 2019. Annual groundwater monitoring reports are presented to the Board of Supervisors and provided to the public via the WICC website ( <a href="http://www.napawatersheds.org/groundwater">www.napawatersheds.org/groundwater</a> ). Groundwater Sustainability Plan (GSP) required by the Sustainable Groundwater Management Act was approved by the Department of Water Resources on January 23, 2023. See GSP Table 12-3 for recommendations  GSP describes the tracking of groundwater conditions and other related parameters through 9 monitoring networks. Conditions, trends and the relationships between these and the sustainable management criteria will be reviewed on an ongoing basis and presented and discussed with the Technical Advisory Group (formation in progress). GSP Section 11 outlines the adaptive management approach,

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
				including "triggers" to watch, consider, and address as needed to avoid undesirable results.  The FCWCD with support from local agencies and the RCD maintain the "OneRain" stream and precipitation monitoring network. <a href="https://napa.onerain.com/home.php">https://napa.onerain.com/home.php</a>
Action Item CON WR-9 (MM 4.11.5c)	The County shall adopt a Water-Efficient Landscape Ordinance for multi-family residential, industrial, and commercial developments regarding the use of water-efficient landscaping consistent with AB 325.	A \$	PBES PW	State Model (WELO) Ordinance became effective Jan. 1, 2010 and is being implemented by PBES and PW departments
Action Item CON WR-9.5	The County shall work with the SWRCB, DWR, DPH, CalEPA, and applicable County and City agencies such as Napa Resource Conservation District (RCD) to seek and secure funding sources for the County to develop and expand its groundwater monitoring and assessment and undertake community-based planning efforts aimed at developing necessary management programs and enhancements.	Ongoing \$->\$\$\$	PW PBES CIA CEO	See CON WR-7 and WR-8 above. Staff is currently working together to address data management needs and coordination efforts as the County continues implementation of the Sustainable Groundwater Management Act (SGMA). The County established a Groundwater Sustainability Agency in 2019. The GSP (2022) was approved by the Department of Water Resources on January 23, 2023.
Action Item CON CPSP-1	The County shall develop a greenhouse gas (GHG) emissions inventory measuring baseline levels of GHGs emitted by County operations through the use of electricity, natural gas, fossil fuels in fleet vehicles and County staff commute trips, and establish reduction targets.	Ongoing \$	PW / PBES	County baseline inventory and action plan was presented and accepted by the Board of Supervisors in 2010. GHG inventory complete 2015. A Climate Action Plan is in progress working in concert with local cities and town.
Action Item CON CPSP-2 (MM 4.8.7a)	The County shall conduct a GHG emission inventory analysis of all major emission sources in the County by the end of 2008 in a manner consistent with Assembly Bill 32, and then seek reductions such that emissions are equivalent to year 1990 levels by the year 2020. Development of a reduction plan shall include consideration of a "green building" ordinance and other mechanisms that are shown to be effective at reducing emissions.	2008 \$\$\$	PBES	NVTA completed a community-wide inventory/framework in 2009. A proposed Climate Action Plan for the unincorporated county was developed and presented to the Board in 2012. Revisions were requested and are underway within the Climate Action Plan is in progress working in concert with local cities and town.
Action Item CON CPSP-3	The County shall conduct an audit within the next five years of County facilities to evaluate energy use, the effectiveness of water conservation measures, production of GHGs, use of recycled and renewable products and indoor air quality to develop recommendations for performance improvement or mitigation. The County shall update the audit periodically and review progress towards implementation of its recommendations.	A \$	PW / PBES	Ongoing: Periodic audits follow the operational plan presented to the Board in March 2010 (See CON CPSP-1). On November 30, 2022, the Climate Action Committee approved two GHG reports, "Napa County Regional 2019

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
				Community Greenhouse Gas Inventory Update Summary” and “Napa County Regional Greenhouse Gas Forecasts (2019-2030)”. Public Works partners with Sustainable Napa Valley on as-needed basis
Action Item CON CPSP-4	The County shall map Napa County’s biomass, wind, geothermal, solar photovoltaic, solar thermal, biofuel, landfill gas, and other potential renewable energy sources and partner with other organizations and industry to disseminate information about the potential for local energy generation.	B \$	PW PBES EH	Will be completed as part of revisions to the Climate Action Plan is in progress working in concert with local cities and town.
Action Item CON CPSP-5	The County shall quantify increases in locally generated energy between 2000 and 2010 and establish annual numeric targets for local production of “clean” (i.e., minimal GHG production) energy by renewable sources, including solar, wind, biofuels, waste, and geothermal.	2010 \$	PBES	Will be completed as part of revisions to the Climate Action Plan is in progress working in concert with local cities and town. Napa County has also joined the Marin Clean Energy Program. A Renewable Energy Ordinance was adopted in 2019.
Action Item CON CPSP-6	The County shall periodically review and update the County Code to be consistent with requirements of CARB and the BAAQMD.	Ongoing \$	PBES	Napa County Code Title 15 (Building and Construction) is periodically updated concurrent with Uniform Building Code updates which includes air quality standards.
<b>Economic Development Element</b>				
Action Item E-13.1	The County Board of Supervisors will be provided with periodic updates on the state of the County’s economy, in order to more effectively utilize County resources to promote countywide economic health.	Ongoing \$→\$\$\$	CEO WIB	Periodic updates accomplished during budget presentations and other public hearing items
<b>Recreation and Open Space Element</b>				
Action Item ROS-1.1	In cooperation with other public agencies and, in particular with the Napa County Regional Park and Open Space District, maintain a comprehensive inventory of public lands, including their existing and potential resource and recreational	Ongoing \$	RPOSD	Up to date as of May, 2021

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
	values.			
Action Item ROS-1.2	Modify the Zoning Ordinance as necessary to reflect the policies included in this Element and provide the appropriate level of review of proposed improvements and activities.	A \$	PBES RPOSD	Zoning Ordinance amended in August 2009 (created Skyline Wilderness Park Combing District and amended Rural Recreation and Campground provisions)
Action Item ROS- 2.1 (MM 4.13.91b)	In partnership with the Napa County Regional Parks and Open Space District, establish numeric objectives for increased off-street trails and acreage of dedicated open space accessible to the public.	A \$	RPOSD PW PBES	Numeric goals included in the RPOS District Master Plan adopted January 2009 and last updated in 2019
Action Item ROS-2.2	Support the Napa County Regional Park and Open Space District in developing, and updating at appropriate intervals, a new park and recreation master plan that identifies priorities, implementation strategies, and funding needs.	A \$→\$\$\$	RPOSD PW PBES	RPOSD Master Plan adopted January 2009 and last updated in 2019
Action Item ROS-2.3	Support sufficient and stable funding for the Napa County Regional Park and Open Space District.	Ongoing \$\$\$	RPOSD	BOS and NCRPOSD held joint meeting in May 2012 and agreed to work together to investigate the feasibility of a ballot measure to permanently fund NCRPOSD. The BOS in June 2012 approved funding for NCRPOSD until July 2017 using Special Projects Fund. Citizens Advisory Committee established in 2014, which in May 2015 recommended a 2016 ballot measure, but the ballot measure failed to achieve required super majority. Ballot measure again attempted in 2020, again failed to achieve required super majority.
Action Item ROS-2.4	Investigate and, where feasible, transfer the ownership and/or operation of existing County park facilities to the Napa County Regional Park and Open Space District.	Ongoing \$	PW RPOSD	Napa River Ecological Reserve management transferred to the RPOS District. Skyline Park transfer deferred until after it is possible to obtain fee title from the State. No current plan to transfer Cuttings Wharf
Action Item ROS-2.5	Support the Napa County Regional Park and Open Space District in obtaining state, federal, and foundation grants, using methods such as preparing and adopting local plans and policies which may be required by various grant programs, and providing required local matching funds.	Ongoing \$→\$\$\$	RPOSD	Since the founding of the District in 2007, it has leveraged every \$1 of County funds into approximately \$3 worth of total cash and in-kind contributions to support parks and open space.
<b>Safety Element</b>				

Action Items	Action	Timing/Priority & Cost	Responsible Party	Notes & Status
Action Item SAF-2.1	Participate in local, regional, and state education programs regarding fire, flood, and geologic hazards.	A \$	PBES PW FCWCD	An ongoing part of County and PBES training programs
Action Item SAF-8.1	The County's seismic fault maps shall be reviewed regularly to ensure that they reflect the latest information available.	A \$	PBES PW	Map/database maintained as ongoing part of PBES work program
Action Item SAF-8.2	Updated maps should be made available to the public at County offices, on the County's Web site, and through other appropriate channels.	Ongoing \$	PBES	Map layers are provided as an ongoing part of the PBES work program and are available (as allowed) via the online GIS data catalogue. The Flood Zones map was updated in 2011; the Hazardous Facilities map was updated in 2012
Action Item SAF-16.1	Develop site criteria and construction standards for development in high fire hazard areas, and adopt standards to restrict urbanizing these areas as defined in Policy AG/LU-27 unless adequate fire services are provided.	Ongoing \$	PBES NC Fire	Building and Fire Codes periodically updated in compliance with State law
Action Item SAF-16.2	Continue to implement "Napa Firewise" through information and education programs, community outreach, and fuel modification.	Ongoing \$	NC Fire PBES	Ongoing part of NC CAL Fire work programs
Action Item SAF-19.1	The County will work with CalFire to develop improved methods of fire planning and firefighting for use in Napa County.	A \$	NC Fire EMS	Goals, Policies & Programs to reflect this are in the 2023 Safety Element Update planned for adoption in early 2023. Draft Safety Element Update has been reviewed by the State Board of Forestry.
Action Item SAF-31.1 (MM 4.9.2)	The County shall require written confirmation from applicable local, regional, state, and federal agencies that known contaminated sites have been deemed remediated to a level appropriate for land uses proposed prior to the County approving site development or provide an approved remediation plan that demonstrates how contamination will be remediated prior to site occupancy. This documentation will specify the extent of development allowed on the remediated site as well as any special conditions and/or restrictions on future land uses.	Ongoing \$	PW PBES	Required by PBES as a regular part of their review of development applications
Action Item SAF-38.1	Provide staffing and other resources as necessary to regularly update and implement the Napa Operational Area Hazard Mitigation Plan (NOAHMP). Consider new information regarding climate change and the expected severity and/or frequency of weather events in updates to the NOAHMP.	Ongoing \$→\$\$\$	EMS	2013-2018 NOAHMP enacted and in use. 2019 NOAHMP received FEMA and Cal EMA certification Summer 2020

### Abbreviations

A= short term (1-5 years)  
B= longer term (5-10 years)  
C=even longer term (10+ years)

BOS = Board of Supervisors  
PBES = Planning, building & Environmental Services (formerly PBES)  
NCTPA =Napa County Transportation & Planning Agency  
FCWCD=Flood Control & Water Conservation District  
CC= County Counsel    WIB= Workforce Investment Board  
NC Fire=Napa County Fire Dept (formerly CalFire)

RPOSD=Reg. Parks & Open Space District  
PW =Public Works Department  
EH = Environmental Health (division of PBES; formerly EH)  
ITS=Information Technology Systems Department  
WICC=Watershed Information Ctr/Conservancy  
CIA = Division of Community & Intergovernmental Affairs

GIS=computerized mapping  
GHG=green house gas

\$ - cost & level of effort is expected to be modest for the reasons stated  
\$→\$\$\$ - cost & level of effort will depend on policy direction & available resources  
\$\$\$ - cost & level of effort is expected to be substantial

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-1a:</b> Continue to inspect housing in response to complaints, and work with property owners to bring units up to current housing code standards.</p>	<p><b>Objective H-1a:</b> Through code enforcement efforts and funding assistance, the County will seek to facilitate the rehabilitation of 19 housing units in fair or dilapidated condition in the County or in the Cities that are occupied by low- (7 units), very low- (8 units), or extremely low income (4 units) households during the planning period.</p>	<p>Ongoing</p>	<p>Partially Complete and Ongoing - Code Enforcement Division diligently respond to complaints and pursue abatement of all violations.</p>
<p><b>Program H-1b:</b> To the extent permitted by law, implement a program to enable non-profit organizations to apply for the use of up to 10 percent of new funds annually to fund projects and programs designed to correct health and safety hazards in owner-occupied and renter-occupied housing that is reserved for low-, very low-, or extremely low-income households.</p>	<p><b>Objective H-1b:</b> The County will seek to make available up to 10 percent of new Affordable Housing Fund money annually to leverage federal, state, and other public and private housing rehabilitation funds.</p>	<p>December 31, 2016</p>	<p>In 2014, the County released a NOFA for small grants (\$20,000) for this purposed. All funds were used. The County is working on rehab program guidelines and will have the program ready to apply for grant funding.</p>



<p><b>Program H-1c:</b> In addition to the priorities identified in Policy AG/LU-118, assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations.</p>	<p><b>Objective H-1a:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - Code Enforcement Division diligently respond to complaints and pursue abatement of all violations.</p>
<p><b>Program H-2a:</b> Prioritize the use of funds for development of Affordable Housing Combination District (AHCD) sites and Napa Pipe, and continue to work with interested parties to encourage their development of the sites under the AHCD provisions. The County will seek to work with a developer to process a development application on at least one AHCD site during the planning period.</p>	<p><b>Objective H-2a:</b> The County will seek to facilitate the development of lower income units by prioritizing its Affordable Housing Fund monies to assist affordable housing development on Affordable Housing (:AH) Combination District sites and supporting affordable housing on the Napa Pipe site, with the objective of permitting and assisting development of at least 113 affordable units during the planning period (32 moderate, 30 low-, and 51 very low-income units, with a goal of half of the very low-income units serving the extremely low-income level)</p>	<p>Ongoing</p>	<p>The Napa Pipe project site has been fully annexed into the City of Napa, who will oversee and permit future development, including 140 affordable units. Up to 80% of County Affordable Housing Funds will be used to assist development of the affordable units.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-2b:</b> Continue to encourage greater provision of affordable housing units in conjunction with market rate projects by implementing the Affordable Housing Ordinance, which requires an inclusionary percentage of 17 to 20 percent in for-sale projects, allows the payment of housing impact fees in for-sale housing projects only for developments of four or fewer units, and requires new rental developments to pay a housing impact fee. The County will conduct a nexus study during the Housing Element planning period to verify the residential fee amounts and inclusionary percentages.</p>	<p><b>Objective H-2a:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - The Residential Impact fees were updated in 2010 and the Commercial Fees were updated in 2014. Both sets of fees used a phase-in approach over three years to get to the maximum fee level.</p>
<p><b>Program H-2c:</b> Conduct a nexus study to verify the commercial housing impact fee during the Housing Element planning period.</p>	<p><b>Objective H-2a:</b> (see above)</p>	<p>Ongoing, each Housing Element Update Cycle</p>	<p>Completed and Ongoing - The Commercial Impact Fees were updated in 2014.</p>
<p><b>Program H-2d:</b> Through a Notice of Funds Availability (NOFA) process, notify the public of available special assistance programs in coordination with the cities and other public and private agencies, using brochures and news releases.</p>	<p><b>Objective H-2a:</b> (see above)</p>	<p>Annually</p>	<p>Completed and Ongoing - A NOFA was issued in 2010 and left open for other projects to apply. Since the initial 2010 NOFA, the County has funded 190 additional units both rental and for sale.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-2e:</b> Continue program of exempting all secondary residential units from the Growth Management System (GMS).</p>	<p><b>Objective H-2b:</b> The County will seek to facilitate the development of second units with the objective of permitting development of at least 25 second units in zoning districts where they are allowed during the planning period.</p>	<p>Ongoing</p>	<p>Completed - 5 to 15 second unit permits are issued per year by right.</p>
--	--	----------------	--

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<b>Program H-2f:</b> Continue to require new affordable housing development projects receiving Affordable Housing Fund monies or any other type of County assistance, as well as those units built as part of the County's inclusionary housing requirement, to apply deed restrictions that will require affordability of assisted low- and very low-income units for a minimum of 40 years.	<b>Objective H-2a:</b> (see above)	Ongoing	Completed and Ongoing - Application of deed restrictions is a prerequisite for Board of Supervisors funding authorization.
<b>Program H-2g:</b> Continue to use the Affordable Housing (:AH) Combination District as a tool to provide specific and reasonable development standards and stimulate affordable housing production in designated locations, as described in Appendix H-1.	<b>Objective H-2a:</b> (see above)	Ongoing	Completed and Ongoing - 12 Affordable Housing sites are designated with a combined potential realistic unit count of 427 units (Table H-F: Summary of Housing Sites Inventory).
<b>Program H-2h:</b> Continue to implement the County's worker proximity housing program that encourages low- and moderate-income homebuyers, to purchase a home within 15 miles of their place of employment, by providing local down payment assistance.	<b>Objective H-2a:</b> (see above)	Ongoing	Completed and Ongoing - Demand for the program is strong with the Board committing \$950,000 in new funds in FY 18-19.

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-2i:</b> Continue to offer financial assistance to property owners who are interested in building second units that would be deed restricted for use by very low- or low-income residents.</p>	<p><b>Objective H-2b:</b> (see above)</p>	<p>Ongoing</p>	<p>Ongoing - The County created a funding process for the JADU program and is looking at a similar process for stand alone ADUs to meet public interest.</p>
<p><b>Program H-2j:</b> Maintain the affordable housing provided in existing mobile home parks to the extent permitted by State law. Existing mobile home parks may be redeveloped, including adding up to 25 percent more units than the number of units allowed by their Planned Development (PD) zoning, provided that the adverse impact of such redevelopment on existing residents, including impact to housing affordability and displacement, is fully analyzed and mitigated. Consider adopting a comprehensive mobile home park conversion ordinance to require the assessment of impacts, public hearings and relocation assistance before a mobile home park can be redeveloped or converted to another use.</p>	<p><b>Objective H-2a:</b> (see above)</p>	<p>Conversion density bonus – Ongoing; Consideration of comprehensive mobile home park conversion ordinance.</p>	<p>Density bonuses are allowed under existing mobile home park zoning provisions. Consideration of potential updates to mobile home park conversion regulations is under review.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-2k:</b> Continue to allow infrastructure improvements as an eligible cost under the Affordable Housing Ordinance, and work with affected agencies to pursue grant money to improve water and sewer infrastructure on the Angwin, Moskowitz Corner, and Spanish Flat sites to facilitate affordable housing development.</p>	<p><b>Objective H-2a:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing Infrastructure improvements are an eligible cost and grant applications can be pursued at the time the projects move forward in :AH districts. Funds to be made available for water and sewer agencies to apply for upgrades in Angwin, Moskowitz Corner and Spanish Flats.</p>
<p><b>Program H-2l:</b> Analyze the County’s inventory of vacant and/or underutilized County-owned properties and identify those that would be suitable to support affordable housing development. If at least one appropriate site is identified, select one site and issue an RFP to solicit proposals from affordable housing developers to develop the site in partnership with the County.</p>	<p><b>Objective H-2a:</b> (see above)</p>	<p>Ongoing</p>	<p>The County has completed its inventory of surplus land. All available sites suitable for affordable housing are located within the cities, who have authority over future land use of the properties</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-2m:</b> If the City of Napa does not commit by June 30, 2015 to provide water service to the Napa Pipe site, Napa County will pursue other water sources for the project. The County will consider all possible water sources and purveyors in order to secure a water supply for the project.</p>	<p><b>Objective H-2a:</b> (see above)</p>	<p>Initiate by July 1, 2015, if necessary, and seek to secure an alternate water source by June 30, 2016</p>	<p>Completed - Development Agreement with City of Napa that included water entitlement was executed January 26, 2015.</p>
<p><b>Program H-3a:</b> Continue the County's program of inspecting migrant farm labor housing to ensure compliance with state standards. Efforts will be made to seek compliance to avoid closure of such facilities.</p>	<p><b>Objective H-3a:</b> Work to maintain occupancy of publicly-run farm worker centers to a year-round average of 75% or more.</p>	<p>Annually</p>	<p>Completed and Ongoing - Public farm labor housing is routinely inspected under the ongoing County work program. Private facilities are inspected by Environmental Management.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-3b:</b> Continue to contract with Fair Housing Napa Valley or another capable organization that will review housing discrimination complaints, attempt to facilitate equitable resolution of complaints and, where necessary, refer complainants to the appropriate County, State, or Federal authorities for further investigation and action. The County's contract with Fair Housing Napa Valley (FHNV) will call for increased public outreach about housing discrimination, including dissemination of informational brochures about available assistance, targeted to vulnerable populations, such as farmworkers. Napa County will amend the agreement with FHNV to call for regular and ongoing distribution of fair housing information, including increasing general public awareness of fair housing laws as well as publicizing availability of assistance for people who believe they are victims of unfair housing practices. The agreement will call for actions such as, but not limited to: public service announcements on radio, TV, and in newspapers; presentations and distribution of literature to key real estate organizations such as Realtors and residential property manager groups; presentations and distribution of literature to community groups associated with populations vulnerable to housing discrimination; and posting of notices publicizing fair housing resources in public locations likely to be visible to vulnerable populations. At a minimum, materials and announcements will be provided in English and Spanish.</p>		<p>Revise agreement with FHNV by July 1, 2015; outreach activities Ongoing</p>	<p>Completed and Ongoing - The contract with Fair Housing Napa Valley was revised in 2014, and the non-profit organization continues to provide the services mandated by this program.</p>
--	--	--	--



**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-3c:</b> Continue to contribute towards the annual operating costs of local emergency shelters and transitional housing where such funds are available and their use legally permissible.</p>	<p><b>Objective H-3b:</b> Provide Affordable Housing Fund resources for the development and operation of emergency shelter and transitional housing facilities for eight homeless families in a partnership between the County Department of Health and Human Services and a non-profit. (December 31, 2014)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - The AHF continues funding for programs, including funding 8 homeless families in 2019.</p>
<p><b>Program H-3d:</b> To the extent permitted by law, continue to require a preference for local workers, including farmworker households, in affordable housing developments assisted with Affordable Housing Fund monies, with a goal of including farmworker households in at least 10 percent of the units assisted with Affordable Housing Fund money. The County will monitor the percentage of farmworker households occupying housing units assisted with Affordable Housing Fund money in conjunction with income eligibility monitoring for affordable housing units.</p>	<p><b>Objective H-3c:</b> Encourage and facilitate development of six new farm labor dwellings on agriculturally-zoned properties and encourage and facilitate development of one new multifamily housing complex targeted to families within the County.</p>	<p>Ongoing</p>	<p>Completed and Ongoing - Permanent affordable housing projects receiving county funds include occupancy by farmworkers and their families.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-3e:</b> Facilitate public/private partnerships and, when appropriate and available, use Affordable Housing Fund monies to help prevent the loss of privately owned farmworker housing facilities serving six or more individuals when private owners are no longer able or willing to do so. The County will approach farmworker housing owners at the time it becomes aware of a potential closure of a private farmworker housing facility. The County's Division of Environmental Health monitors the status of private farmworker housing facilities serving six or more individuals on an annual basis and will evaluate the efficacy of the program in helping to preserve existing units, and propose modifications to the program if units are lost.</p>	<p><b>Objective H-3c:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - Farm worker housing continues to be monitored by the Environmental Health Division and the handful of approved housing has remained steady.</p>
<p><b>Program H-3f:</b> Continue to monitor the need for farm worker housing throughout the harvest season.</p>	<p><b>Objective H-3c:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing – In 2021 Napa County obtained competitive REAP grant funds through ABAG to explore further opportunities for the establishment of Farm Worker housing projects.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-3g:</b> Work to identify a site and funding for a new farmworker family housing development and prioritize use of resources available to support new farmworker housing accordingly.</p>	<p><b>Objective H-3c:</b> (see above)</p>	<p>December 31, 2018</p>	<p>Staff has actively been searching for a suitable site for family farmworker housing leveraging recent State Housing bonds.</p>
<p><b>Program H-3h:</b> Conduct an analysis to identify sites within the unincorporated area where up to 12 units of onsite farmworker housing could be developed, which are near cities and in locations where schools, transit, services, and shopping are relatively easily accessible. The County will provide owners of identified properties with information about opportunities to build farmworker housing on their sites, including potential County assistance.</p>	<p><b>Objective H-3c:</b> (see above)</p>	<p>Conduct study and outreach to owners by January 31, 2016</p>	<p>Site analysis occurred prior to January 31, 2016. Several potential housing sites meeting program criteria have been identified. Staff is looking for additional sites and funding options with the State Department of Housing and Community Development.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-3i:</b> In soliciting developer requests for Affordable Housing Fund monies, encourage developers to propose projects that can address unmet needs for housing with supportive services for the disabled (including the developmentally disabled).</p>	<p><b>Objective H-3b:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - An MOU Agreement has been executed for one project currently under construction with another three projects willing to include permanent supportive units in their developments.</p>
<p><b>Program H-3j:</b> Review the Zoning Ordinance and amend as necessary to ensure compliance with California Health and Safety Code Sections 17021.5 and 17021.6 regarding provisions for farmworker and employee housing in zones that currently include agriculture and/or housing as allowable uses.</p>	<p><b>Objective H-3c:</b> (see above)</p>	<p>Review and amend ordinance by January 31, 2017</p>	<p>Ordinance amended with the last Housing Element update. Additional updates to be considered with Sixth Cycle Housing Element Update.</p>

**2022 ANNUAL ELEMENT PROGRESS  
REPORT**

(CCR Title 25 §6202)

<p><b>Program H-4a:</b> Consistent with Conservation Element Policy CON-66 continue the program of providing local worker or “proximity” preferences to new affordable housing projects and continue providing assistance to local workers who buy homes in market rate projects.</p>	<p><b>Objective H-4a:</b> Make available permits for construction of up to 105 new dwelling units each year, exclusive of permits for secondary residential units, and exclusive of permits for “carryover” affordable housing units. Permits for non-affordable housing units not issued in one year may be issued in any of the following three years, thereby allowing the number of permits issued to exceed 105 in a given year when unused permits are available from prior years. The County will set aside a minimum of 16 permits each year for affordable housing units, as defined in the County’s Growth Management System, in addition to 630 such permits that the County projects will be available in 2014 for issuance for units affordable to lower and</p>	<p>Ongoing</p>	<p>Completed and Ongoing - Workforce proximity housing program is an ongoing program available to purchasers of deed restricted affordable property where the housing unit is within 20 miles of the worker’s employment site.</p>
<p><b>Program H-4b:</b> Continue to allocate Affordable Housing Fund monies to affordable housing developments in the cities when funds are available and such allocation is consistent with the Affordable Housing Ordinance and criteria. The County will continue to work with the cities to establish and update a list of criteria that will be used to evaluate proposals for use of Affordable Housing Fund monies, with priority for projects that serve extremely low income households. The County will use a NOFA process to solicit applications on an annual basis.</p>	<p><b>Objective</b></p>	<p>Annually</p>	<p>Completed and Ongoing. In 2017/2018 the County helped to fund 190 new units and secure 105 RHNA transfer credits for the sixth cycle.</p>

<p><b>Program H-4c:</b> Consistent with Agriculture and Land Use Policy AG/LU-15.5, staff of the County Department of Planning, Building and Environmental Services will review and recommend to the Planning Commission and the Board of Supervisors appropriate changes to planning and zoning standards that minimize any conflicts between housing and agriculture.</p>	<p><b>Objective H-4a:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - Zoning text and map amendments are evaluated for conflicts between housing and agriculture as part of review process.</p>
<p><b>Program H-4d:</b> Continue to allow accessory residential units in commercial zones where compatible with neighboring land uses, and where infrastructure is available to support the residential units.</p>	<p><b>Objective H-4a:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - Zoning regulations allow accessory dwelling units in commercial zoning districts.</p>

<p><b>Program H-4e:</b> When requested by Mid-Peninsula Housing, the designated developer for affordable housing at Napa Pipe, Napa County will assist in identifying and securing funding for the 140 low- and very low-income housing units that are contemplated as part of the Napa Pipe Development Agreement. This will include providing information and other assistance in the preparation of applications to third parties for funding assistance. The County also anticipates that the development agreement for the Napa Pipe property will specify that a significant portion of affordable housing impact fees paid by development at Napa Pipe will be dedicated to assisting affordable housing onsite. Finally, consistent with Program H-2a, the County's Affordable Housing Ordinance gives funding priority for all available housing trust fund monies to projects located in the unincorporated area.</p>	<p><b>Objective H-4a:</b> (see above)</p>	<p>Ongoing</p>	<p>The first of two affordable housing developments at Napa Pipe is in the pre-development phase for a total of 140 new units. SB235 (2019) implemented to address RHNA credit between County and Napa City.</p>
<p><b>Program H-4f:</b> Continue to allow development of Single Room Occupancy (SRO) Units in all zones that allow multifamily housing.</p>	<p><b>Objective H-4a:</b> (see above)</p>	<p>Ongoing</p>	<p>Completed and Ongoing - Zoning regulations permit SRO units in all districts where multifamily housing is permitted.</p>

<b>Program H-5a:</b> Continue to provide fee waivers for nonprofit affordable housing developers.	<b>Removal of Government Constraints</b>	Ongoing	Completed and Ongoing - Fee waivers are available for qualifying projects.
<b>Program H-5b:</b> Expedite permit processing for housing projects that will serve very low-, low-, and moderate income households when such projects provide adequate assurances of long-term affordability.	<b>Removal of Government Constraints</b>	Ongoing	Completed and Ongoing - Expedited processing is available for qualifying projects.
<b>Program H-5c:</b> Exempt affordable housing projects from the 30-acre minimum parcel size requirement for PD zones.	<b>Removal of Government Constraints</b>	Ongoing	Completed and Ongoing - Zoning regulations permit affordable housing on all PD properties.



<p><b>Program H-5d:</b> Continue to implement the Growth Management System by (i) continuing the practice of accumulating unused Category 4 (affordable) permits indefinitely; (ii) continuing the practice of accumulating unused permits in other categories for three years; (iii) consolidating implementation of Category 1-3 permits except when a lottery is required; and (iv) simplifying periodic updates to the permit limit. Updates to the permit limit may occur on an annual basis, but in no case less frequently than this Housing Element is updated, and shall be calculated based on the population in unincorporated Napa County times one percent (0.01), divided by the estimated household size and adjusted to reflect the average annual growth rate of the nine Bay Area counties over the last 5-7 years (if less than 1%). In no instance shall the new permit limit be lower than the previous permit limit if the units are required to meet the County's Regional Housing Needs Allocation, except as needed to adjust for annexations within the planning period. (Also see Policy Ag/LU-119 in the Agricultural Preservation and Land Use Element.)</p>	<p><b>Removal of Government Constraints</b></p>	<p>Annually</p>	<p>Completed and Ongoing - Residential permit activity is evaluated annually for compliance with the Growth Management System including carryover provisions for affordable housing units.</p>
<p><b>Program H-5e:</b> Staff will report to the Board of Supervisors on the status of housing entitlement processing, including Napa Pipe and other priority sites and, if necessary, recommend changes in policies and regulations as appropriate to promote their development.</p>	<p><b>Removal of Government Constraints</b></p>	<p>Annually</p>	<p>Completed and Ongoing - General Plan and Housing Annual Report is prepared in the first quarter of every fiscal year and provided to Board of Supervisors for review, comment and direction.</p>

<b>Program H-6a:</b> As part of the development review process for major projects, encourage mixed-use development, such as Napa Pipe, where appropriate.	<b>Objective</b>	Ongoing	Completed and Ongoing - Development proposals are evaluated for mixed-use potential where appropriate.
<b>Program H-6c:</b> Continue to enforce current state mandated standards governing the use of energy efficient construction, and continue to implement green building standards in building code.	<b>Objective H-6a:</b> (see above)	Ongoing	Completed and Ongoing - Building Division evaluates permits applications for compliance with energy and green building standards.
<b>Program H-6d:</b> Establish a Property Assessed Clean Energy (PACE) program to assist homeowners with financing to make sustainable energy improvements to their homes.	<b>Objective H-6a:</b> (see above)	April, 2014	Completed and Ongoing - Public Works Department implemented 4 separate PACE programs all prior to April 2014, which are ongoing.

Jurisdiction	Napa County - Unincorporated	
Reporting Year	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

ANNUAL ELEMENT PROGRESS REPORT  
Housing Element Implementation

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.  
Please contact HCD if your data is different than the material supplied here

Table B														
Regional Housing Needs Allocation Progress														
Permitted Units Issued by Affordability														
		1		2									3	4
Income Level		RHNA Allocation by Income Level		2015	2016	2017	2018	2019	2020	2021	2022	2023	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	51	-	-	-	-	-	-	-	-	-	-	14	37
	Non-Deed Restricted		-	-	-	-	3	1	-	6	4	-		
Low	Deed Restricted	30	-	-	-	-	-	-	-	-	-	-	14	16
	Non-Deed Restricted		-	-	1	-	-	2	3	4	4	-		
Moderate	Deed Restricted	32	-	-	-	-	-	-	-	-	-	-	59	-
	Non-Deed Restricted		-	8	13	16	6	3	5	3	5	-		
Above Moderate		67	-	11	14	14	22	17	10	13	11	-	112	-
Total RHNA		180												
Total Units			-	19	28	30	31	23	18	26	24	-	199	53
Progress toward extremely low-income housing need, as determined pursuant to Government Code 65583(a)(1).														
		5		2015	2016	2017	2018	2019	2020	2021	2022	2023	6	7
		Extremely low-Income Need											Total Units to Date	Total Units Remaining
Extremely Low-Income Units*		26		-	-	-	-	-	-	-	-	-	-	26

\*Extremely low-income housng need determined pursuant to Government Code 65583(a)(1). Value in Section 5 is default value, assumed to be half of the very low-income RHNA. May be overwritten.

Note: units serving extremely low-income households are included in the very low-income RHNA progress and must be reported as very low-income units in section 7 of Table A2. They must also be reported in the extremely low-income category (section 13) in Table A2 to be counted as progress toward meeting the extremely low-income housing need determined pursuant to Government Code 65583(a)(1).

Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will only include units that were permitted since the start of the planning period. Projection Period units are in a separate column.

Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at [apr@hcd.ca.gov](mailto:apr@hcd.ca.gov).

<b>Jurisdiction</b>	a County - Unincorporated	
<b>Reporting Year</b>	2022	(Jan. 1 - Dec. 31)
<b>Planning Period</b>	5th Cycle	01/31/2015 - 01/31/2023

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	4
Low	Deed Restricted	0
	Non-Deed Restricted	4
Moderate	Deed Restricted	0
	Non-Deed Restricted	5
Above Moderate		11
Total Units		24

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Units by Structure Type	Entitled	Permitted	Completed
SFA	0	0	0
SFD	0	9	8
2 to 4	0	0	0
5+	0	0	0
ADU	0	14	8
MH	0	1	1
<b>Total</b>	<b>0</b>	<b>24</b>	<b>17</b>

Housing Applications Summary	
Total Housing Applications Submitted:	67
Number of Proposed Units in All Applications Received:	67
Total Housing Units Approved:	12
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas



A Tradition of Stewardship  
A Commitment to Service

**Planning, Building & Environmental Services**

1195 Third Street, Suite 210  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)

Main: (707) 253-4417  
Fax: (707) 253-4336

**Brian Bordona**  
Interim Director

To: Board of Supervisors	From: Trevor Hawkes, Supervising Planner
Date: March 14, 2023	Re: Correction Memo for Item No. 11F, File ID 23-0316: Change to Summary Table and Staff Report

In calendar year 2022 Napa County had three Accessory Dwelling Units (ADUs) which received both Building Permits and Certificates of Occupancy in the same year. These units were captured in the database for Total Building Permits issued, but a small Excel calculation error prevented them from being captured in the total Certificates of Occupancy issued for the same year. Total Certificates of Occupancy in 2022, for all types of dwelling units, is 20, not 17. Staff has updated the Summary Table to reflect the correct number of Certificates of Occupancy that were issued.

Page 2 of the Staff Report also references that the County issued 26 Building Permits in 2022. Staff has provided an updated Staff Report with Track Changes that reflects the correct number of Building Permits issued; 24.

<b>Jurisdiction</b>	a County - Unincorporated	
<b>Reporting Year</b>	2022	(Jan. 1 - Dec. 31)
<b>Planning Period</b>	5th Cycle	01/31/2015 - 01/31/2023

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	4
Low	Deed Restricted	0
	Non-Deed Restricted	4
Moderate	Deed Restricted	0
	Non-Deed Restricted	5
Above Moderate		11
Total Units		24

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Units by Structure Type	Entitled	Permitted	Completed
SFA	0	0	0
SFD	0	9	8
2 to 4	0	0	0
5+	0	0	0
ADU	0	14	11
MH	0	1	1
<b>Total</b>	<b>0</b>	<b>24</b>	<b>20</b>

Housing Applications Summary	
Total Housing Applications Submitted:	67
Number of Proposed Units in All Applications Received:	67
Total Housing Units Approved:	12
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits
--

Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

**TO:** Board of Supervisors  
**FROM:** Brian Bordona, Interim Director of Planning, Building and Environmental Services  
**REPORT BY:** Trevor Hawkes, Supervising Planner  
**SUBJECT:** Annual Report to the Board of Supervisors, Office of Planning and Research & HCD Regarding the 2008 Napa County General Plan

---

## **RECOMMENDATION**

Interim Director of Planning, Building and Environmental Services requests acceptance of the annual report regarding the status of the Napa County General Plan and progress in its implementation as required by Government Code Section 65400.

## **EXECUTIVE SUMMARY**

Section 65400 of the Government Code requires planning agencies to provide an annual report to their legislative body (i.e. the Board of Supervisors), the State Department of Housing and Community Development (HCD), and the Governor's Office of Planning and Research (OPR). The report is required to address the status of the 2008 general plan and progress in its implementation. HCD provides forms that must be used for the housing element portion of the report and Section 65400(a)(2)(B) requires the report to be considered at a public meeting where members of the public are allowed to provide oral testimony and written comments.

## **PROCEDURAL REQUIREMENTS**

1. Staff Report
2. Public Comment
3. Motion, second, and vote on item.

## **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it Mandatory or Discretionary?	Mandatory
Consequences if not approved:	The County would not be able to submit our annual report to HCD and OPR
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit
Additional Information	Multiple Strategic Pillars addressed in completing General Plan action items.

## **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: No action is requested and therefore CEQA is not applicable.



## **BACKGROUND AND DISCUSSION**

The Napa County General Plan was comprehensively updated in June 2008 and the County's Housing Element was last updated and certified in December 2014 in accordance with Government Code Sections 65580 et seq. The Circulation Element was updated in 2019. On January 24, 2023, the Napa County Board of Supervisors adopted an update to the County's General Plan Housing Element for the Sixth Cycle Planning Period (2023-2031) with certification to take place in the first half of 2023. An update to the County's Safety Element is currently in process and staff plans to bring the update to the County Planning Commission and Board of Supervisors in the first half of 2023 for adoption. All chapters or "elements" of the General Plan include goals, policies, and implementation tasks ("action items" and "programs") that collectively guide land use decision making for unincorporated Napa County.

Section 65400 of the Government Code requires planning agencies to prepare an annual report regarding the status of their general plan and its implementation, and to provide copies of the report to their legislative body (i.e. the Board of Supervisors), the State Department of Housing and Community Development (HCD), and the Governor's Office of Planning and Research (OPR). HCD provides a form that must be used for the Housing Element portion of the report which contains a Regional Housing Needs Allocation (RHNA) progress report section, and a section on implementation of Housing Element programs. Also required, but contained in a separate table, is a progress report on all other action items in the General Plan.

### **Regional Housing Needs Allocation Progress Report**

In 2014, HCD certified the County's Housing Element commencing with implementation of the Fifth Cycle of the RHNA program, with the reporting period running from 2015 to 2023 (the 'planning period' is 2014-2022). During this period the County has been assigned a RHNA of 180 total housing units divided among four income categories as follows: 51 very low income units; 30 low income units; 32 moderate income units; and 67 above moderate income units. Starting in 2018, submission to the State occurs electronically. HCD provides the Annual Progress Report (APR) form in an auto-populating, jurisdiction-specific spreadsheet. Attached to this report is a summary of the totals for this year.

The County issued 24 building permits to develop dwelling units in 2022, a decrease of two (2) from reporting year 2021. The 24 permits consisted of 9 primary (or 'main') single family detached (SFD) dwelling units, all of which are for traditional site built custom residences. For purposes of reporting to the State site built custom SFD's count towards the County's share of 'above moderate' income level dwelling units. 14 of the 24 permits were for Second Units/Accessory Dwelling Units (ADU's). Units where no rent, or below market rate rents will be charged qualify as non-deed restricted 'low' income, 'very low' income, and 'moderate' income units. For the 14 ADU's issued permits in reporting year 2021, four (4) qualify as 'very low', four (4) qualify as 'low', four (4) qualify as 'moderate', and two (2) qualify as 'above moderate'. The county also permitted one modular unit in the 2022 reporting year, which counts towards the county's 'moderate' income level.

The RHNA reporting period for the Fifth Cycle occurring between 2015 through 2023. Based on the survey results and corresponding revised totals, the County has met the RHNA goal in the 'above moderate' and 'moderate' categories, and is making progress in the two (2) lower income categories as follows:

- Above Moderate: 67 units assigned - 112 permits issued; 0 units remaining
- Moderate: 32 units assigned - 59 permits issued; 0 units remaining
- Low: 30 units assigned - 14 permits issued; 16 units remaining
- Very Low: 51 units assigned - 14 permits issued; 37 units remaining

Staff had anticipated that the 140 affordable units approved as a part of the Napa Pipe Specific Plan would be constructed during the Fifth Cycle, which would have more than met our current RHNA obligations. Those units will likely be credited to the County during the Sixth Housing Cycle.

#### General Plan Implementation

The attached General Plan Implementation Table reports on status on the 76 action items that are separate from Housing Element programs. The majority of these action items are either completed, ongoing, or in progress. The Board's direction on the Strategic Plan also furthers the goals and policies of the General Plan.

#### Public Input

Government Code Section 65400(a)(2)(B) requires the report to be considered at a public meeting where members of the public are allowed to provide oral testimony and written comments. While no action by the Board of Supervisors is requested, the Board should accept oral and written comments from the public, and Staff would be happy to answer questions.

Staff anticipates filing the report with HCD and OPR on March 31, 2023.

**TO:** Board of Supervisors  
**FROM:** Brian Bordona, Interim Director of Planning, Building and Environmental Services  
**REPORT BY:** Trevor Hawkes, Supervising Planner  
**SUBJECT:** Annual Report to the Board of Supervisors, Office of Planning and Research & HCD Regarding the 2008 Napa County General Plan

---

## **RECOMMENDATION**

Interim Director of Planning, Building and Environmental Services requests acceptance of the annual report regarding the status of the Napa County General Plan and progress in its implementation as required by Government Code Section 65400.

## **EXECUTIVE SUMMARY**

Section 65400 of the Government Code requires planning agencies to provide an annual report to their legislative body (i.e. the Board of Supervisors), the State Department of Housing and Community Development (HCD), and the Governor's Office of Planning and Research (OPR). The report is required to address the status of the 2008 general plan and progress in its implementation. HCD provides forms that must be used for the housing element portion of the report and Section 65400(a)(2)(B) requires the report to be considered at a public meeting where members of the public are allowed to provide oral testimony and written comments.

## **PROCEDURAL REQUIREMENTS**

1. Staff Report
2. Public Comment
3. Motion, second, and vote on item.

## **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it Mandatory or Discretionary?	Mandatory
Consequences if not approved:	The County would not be able to submit our annual report to HCD and OPR
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit
Additional Information	Multiple Strategic Pillars addressed in completing General Plan action items.

## **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: No action is requested and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

The Napa County General Plan was comprehensively updated in June 2008 and the County's Housing Element was last updated and certified in December 2014 in accordance with Government Code Sections 65580 et seq. The Circulation Element was updated in 2019. On January 24, 2023, the Napa County Board of Supervisors adopted an update to the County's General Plan Housing Element for the Sixth Cycle Planning Period (2023-2031) with certification to take place in the first half of 2023. An update to the County's Safety Element is currently in process and staff plans to bring the update to the County Planning Commission and Board of Supervisors in the first half of 2023 for adoption. All chapters or "elements" of the General Plan include goals, policies, and implementation tasks ("action items" and "programs") that collectively guide land use decision making for unincorporated Napa County.

Section 65400 of the Government Code requires planning agencies to prepare an annual report regarding the status of their general plan and its implementation, and to provide copies of the report to their legislative body (i.e. the Board of Supervisors), the State Department of Housing and Community Development (HCD), and the Governor's Office of Planning and Research (OPR). HCD provides a form that must be used for the Housing Element portion of the report which contains a Regional Housing Needs Allocation (RHNA) progress report section, and a section on implementation of Housing Element programs. Also required, but contained in a separate table, is a progress report on all other action items in the General Plan.

### **Regional Housing Needs Allocation Progress Report**

In 2014, HCD certified the County's Housing Element commencing with implementation of the Fifth Cycle of the RHNA program, with the reporting period running from 2015 to 2023 (the 'planning period' is 2014-2022). During this period the County has been assigned a RHNA of 180 total housing units divided among four income categories as follows: 51 very low income units; 30 low income units; 32 moderate income units; and 67 above moderate income units. Starting in 2018, submission to the State occurs electronically. HCD provides the Annual Progress Report (APR) form in an auto-populating, jurisdiction-specific spreadsheet. Attached to this report is a summary of the totals for this year.

The County issued 24 building permits to develop dwelling units in 2022, a decrease of two (2) from reporting year 2021. The ~~26-24~~ permits consisted of 9 primary (or 'main') single family detached (SFD) dwelling units, all of which are for traditional site built custom residences. For purposes of reporting to the State site built custom SFD's count towards the County's share of 'above moderate' income level dwelling units. 14 of the 24 permits were for Second Units/Accessory Dwelling Units (ADU's). Units where no rent, or below market rate rents will be charged qualify as non-deed restricted 'low' income, 'very low' income, and 'moderate' income units. For the 14 ADU's issued permits in reporting year 2021, four (4) qualify as 'very low', four (4) qualify as 'low', four (4) qualify as 'moderate', and two (2) qualify as 'above moderate'. The county also permitted one modular unit in the 2022 reporting year, which counts towards the county's 'moderate' income level.

The RHNA reporting period for the Fifth Cycle occurring between 2015 through 2023. Based on the survey results and corresponding revised totals, the County has met the RHNA goal in the 'above moderate' and 'moderate' categories, and is making progress in the two (2) lower income categories as follows:

- Above Moderate: 67 units assigned - 112 permits issued; 0 units remaining
- Moderate: 32 units assigned - 59 permits issued; 0 units remaining
- Low: 30 units assigned - 14 permits issued; 16 units remaining
- Very Low: 51 units assigned - 14 permits issued; 37 units remaining

Staff had anticipated that the 140 affordable units approved as a part of the Napa Pipe Specific Plan would be constructed during the Fifth Cycle, which would have more than met our current RHNA obligations. Those units will likely be credited to the County during the Sixth Housing Cycle.

#### General Plan Implementation

The attached General Plan Implementation Table reports on status on the 76 action items that are separate from Housing Element programs. The majority of these action items are either completed, ongoing, or in progress. The Board's direction on the Strategic Plan also furthers the goals and policies of the General Plan.

#### Public Input

Government Code Section 65400(a)(2)(B) requires the report to be considered at a public meeting where members of the public are allowed to provide oral testimony and written comments. While no action by the Board of Supervisors is requested, the Board should accept oral and written comments from the public, and Staff would be happy to answer questions.

Staff anticipates filing the report with HCD and OPR on March 31, 2023.



# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0269

**TO:** Board of Supervisors

**FROM:** Steven Lederer, Director, Public Works

**REPORT BY:** Steven Lederer, Director, Public Works

**SUBJECT:** Discussion and Possible Board Direction Regarding the Disposition of a Section of Old Howell Mountain Road (OHMR)

### **RECOMMENDATION**

Board to receive a presentation, and possibly provide direction on, the disposition of a segment of Old Howell Mountain Road (OHMR) which was closed due to storm damage in 2017 and was further damaged by the January 2023 storms.

### **EXECUTIVE SUMMARY**

Old Howell Mountain Road (OHMR) was closed from a location just north of the St. Helena city limit to its connection with Deer Park Road (the “four corners” intersection) due to damage sustained during the winter storms of 2017. For a variety of reasons, making the repairs to the slide area (at an estimated cost of \$3 million) were not funded by the Board since that time, not the least of which being that further damage from future storms was inevitable. During the storms of 2023, two large additional slides, and dozens of smaller ones, have occurred on the road, raising the anticipated repair bill to something above \$10 million. Staff will provide an update on the Road’s condition, and seeks Board input and direction on future actions.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	This will be determined based on and dependent on the direction provided by the Board.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Board has several options to consider, including a no action alternative.
Is the general fund affected?	No

Future fiscal impact:	This is dependent on future Board direction.
Consequences if not approved:	OHMR will continue in its current condition
County Strategic Plan pillar addressed:	Effective and Open Government

## **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: Not a project at this time. CEQA will be determined in the future based on any direction provided by the Board.

## **BACKGROUND AND DISCUSSION**

Old Howell Mountain Road (OHMR) was closed from a location just north of the St. Helena city limit to its connection with Deer Park Road (the “four corners” intersection) due to damage sustained during the winter storms of 2017. A map of the area is attached for Board reference.

For a variety of reasons, repairs to the slide area (at an estimated cost of \$3 million) were not funded by the Board since that time. Some of these reasons include 1) this portion of the roadway does serve any driveways; 2) Use of the road would be very dangerous during a fire; and 3) County staff was concerned that additional slides were likely to occur on the road, thus rendering the investment to fix one large slide as a questionable use of funds.

During the storms of 2023, two large additional slides, and dozens of smaller ones, have occurred on the road, raising the anticipated repair bill to something above \$10 million. Photos of some of the damages are attached. Although two of the recent slides are 2023 storm related, many of the other slides are not, and since the road has been closed it is unlikely that FEMA funds will be forthcoming for any of the repairs.

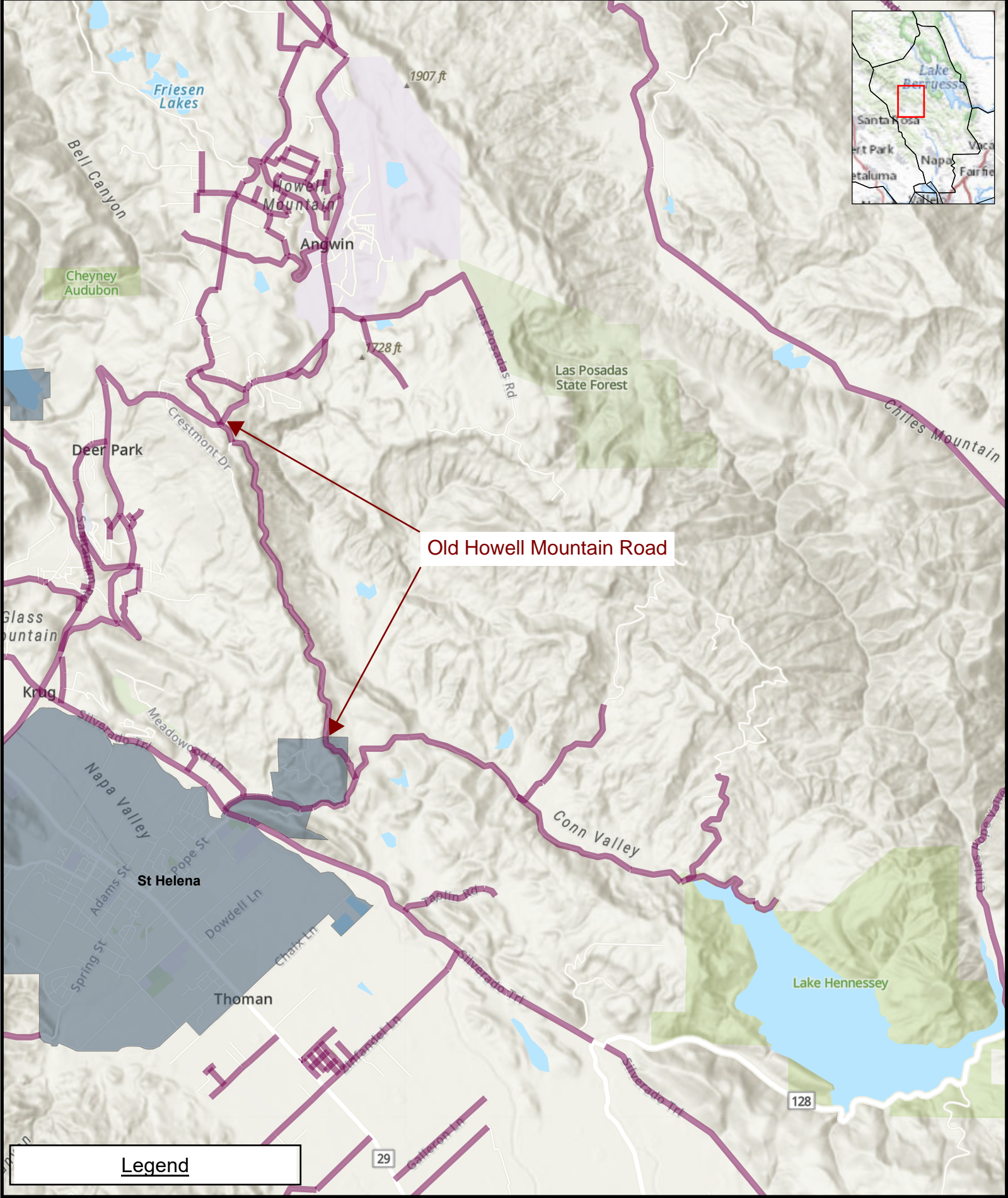
Staff is looking at several potential options for the Board to consider. There may be others as well.

1. Repair and reopen the road. While just a “back of the envelope” estimate at this time, staff believes costs would exceed \$10 million. For comparison purposes, the normal road repair budget for the entire County is about \$12 million annually.
2. Abandon the Road. The County has a 60 foot wide easement for the length of the road but does not own the underlying land. If the County abandoned the road the land would revert to the private property owners who do own the underlying land.
3. Determine if some other agency (such as Napa County Parks and Open Space District), or non-governmental entity (such as the Land Trust) would be interested in funding, building, and maintaining a bicycle or pedestrian path along the easement. While doing so would still cost a significant amount of money, it would be less than reestablishing the original roadway.

4. Continue the status quo (road closed).

Staff welcomes input from the Board and the Public.





Esri, NASA, NGA, USGS, FEMA, USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/



Produced by Napa County GIS

# Old Howell Mountain Road

Printed On: 2/14/2023



0 2.25 4.5 9 mi

Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

816





# Old Howell Mountain Road

March 14, 2023



A Tradition of Stewardship  
A Commitment to Service

817



# OHMR-Typical Condition





# OHMR-Future Slide





# OHMR-Future Slide II





# OHMR-Uphill Slide





# OHMR-Uphill Slide II





# OHMR-Uphill Slide III





# OHMR-Slide in Progress





# OHMR-Uphill Slide IV





# OHMR-2017 Slide





# OHMR-2017 Slide





# OHMR-Rock from Above





# OHMR-More Rocks from Above





# OHMR-More Rocks to Come





# OHMR-Future Slide III





# OHMR-Uphill Slide V





# OHMR-More Rocks from Above





# OHMR-Road Gone





# OHMR-It Went that Way





# OHMR-More to Come (or go)





# OHMR-Ditto





# OHMR-Warning Signs Placed





# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0335

---

**TO:** Board of Supervisors

**FROM:** Steven Lederer - Director of Public Works

**REPORT BY:** Steven Lederer - Director of Public Works

**SUBJECT:** 1127 First Street HVAC Replacement in the context of the Facilities Master Planning Process

---

### **RECOMMENDATION**

Director of Public Works requests the Board of Supervisors:

1. Receive an update on the planning and design of the 1127 First Street HVAC Replacement Project, PW 21-23; and
2. Provide direction whether to move the Project forward given the Facilities Master Planning process initiated on January 31, 2023.

### **EXECUTIVE SUMMARY**

On December 14, 2021, the Board of Supervisors (Board) approved a professional service agreement with YEI Engineers, Inc. to develop a design for replacing the heating, ventilation, and air conditioning (HVAC) units on the 1127 First Street building. In addition to evaluation of the HVAC units, YEI also observed issues with the existing roofing of the building jeopardizing the feasibility of implementing the HVAC project. YEI and Public Works staff are nearing completion of the design, and the project is nearly ready for bidding. The overall project cost is estimated to be \$6 million.

In parallel with this project development, the Board on January 31, 2023, initiated a Facilities Master Planning Process, which will ultimately result in the County disposing of the property at 1127 First Street.

While not performing the HVAC project holds significant operational risks since all or part of the building could become unusable if the existing HVAC system fails, it is prudent to consider whether these funds could be better spent in the FMP process or elsewhere.



**PROCEDURAL REQUIREMENTS:**

1. Staff report.
2. Public comments.
3. Motion, second, discussion, and vote on the item.

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	The HVAC project is budgeted in Capital Improvement Project Fund 3000, Org 3000550, Project 21070
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Whether to move forward with the HVAC project or not is a policy decision
Is the general fund affected?	Yes
Future fiscal impact:	The construction would begin in 2023 and continue into 2024. If the units are not replaced, and should they fail, operational continuity will have a fiscal impact.
Consequences if not approved:	Staff will not have direction as to whether to continue with the HVAC project or not
County Strategic Plan pillar addressed:	Effective and Open Government
Additional Information	None

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

Public Works staff conducted a qualifications-based process for the selection of a firm to provide design and engineering along with construction support, inspections, and associated services for the study and replacement of the HVAC units for the 1127 First Street County facility. YEI Engineers Inc. was determined to be the most qualified firm to provide these services and on December 14, 2021, the Board of Supervisors approved a professional services agreement (PSA) with YEI. YEI completed their study and submitted a technical memorandum with the recommendation to replace the HVAC units due to their failing condition, age, and inefficiency. The replacement units weigh more than the existing units. Due to the added weight of the increased size of the units, YEI recommended that the roofing system be upgraded as well. YEI and Public Works staff are nearing completion of the design, and the project is nearly ready for bidding. The overall

project cost is estimated to be \$6 million.

On January 31, 2023, the Board discussed and initiated a Facilities Master Planning (FMP) process. While it is still early in the process, the Board's consensus top priority was to relocate County staff from 1127 First Street, enabling the future disposal of the property. This goal cannot be accomplished until a new location for the four departments operating from this site (Public Defender, District Attorney, Child Support Services, and Assessor/Recorder) is available.

The Public Works Director created the attached document to capture all the Board's input from the January 31, 2023, meeting, and developed various phases, or "Paths", to accomplish each of these goals. One benefit of this structure is to allow certain phases to move quickly, while retaining options in other phases to accomplish (or consider accomplishing) all the Board's stated goals.

If the Board is in general agreement with Path 1, it is possible to have a new location constructed to house all the staff currently located in 1127 First Street within 3-4 calendar years.

Path 1 results in the construction of a new office building at our downtown campus, to be located either on the Sullivan Parking lot (the surface lot bounded by Third Street, Randolph Street, Fourth Street, and Coombs Street), or in the three-hour surface parking lot located between the Administration Building and the 5th Street Parking Garage.

The new building could theoretically house:

1. Public Defender;
2. District Attorney;
3. Child Support Services;
4. Assessor/Recorder;
5. Probation (Currently located in the Hall of Justice);
6. County Counsel/CEO/Board (currently located on the third floor of the Administration Building);
7. Board Chambers and other community meeting rooms (1st floor);
8. Comprehensive Services for Older Adults (currently located at 650 Imperial Drive); and
9. Provide space for the City of Napa, if they choose and an agreement can be reached.

This plan would also provide needed expansion space, with minor alternations, in the existing Administration Building for Public Works, Planning Building and Environmental Services, and Human Resources, while also allowing Parks and Fire Department staff currently located in the Hall of Justice/Jail complex and Flood personnel located at 804 First Street to relocate to the Administration Building. The Auditor-Controller and Treasurer-Tax Collector offices would remain in the Administration Building. This has the dual benefit of emptying buildings to facilitate future phases of the FMP, while consolidating key staff in a central location.

As directed by the Board, the County issued a Request for Proposals on February 13th for a qualified consultant to conduct a "Space Study", which will determine the current and projected facilities needs for all our departments. Until that is completed, we will not know exactly how much new space is needed. However, using very general accepted practices (existing head count in each department, 300sq. ft/person, with a 20% contingency for growth), the County will need about 110,000 sq. ft. of new office space. This does not include a first floor that will likely be devoted to a Board Chamber (shared by the Napa City Council if a cooperative agreement is reached), lobby, security, ITS/communications infrastructure, and public meeting space. It also does not include any space for City of Napa operations (space would be added based on their needs, should a cooperative agreement be reached).

The Sullivan Parking lot is approximately 50,000 square feet. Allowing for a setback from Third Street, roughly 37,000 square feet could be available for a building footprint. As such, we estimate an approximately four-story building would be adequate to meet County needs (1st floor as described above, plus 3 floors of office space). Additional space (floors) could be added if requested depending on City's needs. Also, if the lot could be expanded by closing the section of Fourth Street between Randolph Street and Coombs Street and incorporating that space into our building footprint, it might be possible to make the building shorter by a floor. Alternatively, the three-hour surface parking lot next to the administration building is available but is on a smaller footprint than the Sullivan Parking lot. It could still meet our needs, but the corresponding building would necessarily be taller. A plan to provide adequate parking for the new construction would also have to be developed.

The estimated going rate for office construction is in the range of \$650-\$1100/square feet (inclusive of all costs, not just construction). Thus, the cost of the building could range between \$100M-\$165M. An additional \$15M could be required if a parking structure is needed.

Path 1 could aggressively be completed in about 3-4 years. Year One would include the space study, arranging funding, finalizing options, and Board decision making. Year Two would include design (1-1.5 years), and Year Three (1-1.5 years) would be for construction.

The HVAC system at 1127 First Street is aged, was severely stressed and taken offline during the heat wave last summer, and could fail at any time. Failure would disrupt operations located in the building and would result in some county costs to either repair the unit and/or relocate county employees. We should be able to alleviate this risk as quickly as possible. However, due to supply chain issues creating excessively long lead times to

procure the new units, under the best of circumstances the HVAC replacement project could still not be completed for 18 months. If the County proceeds with an aggressive approach to Path 1 as described above, the \$6M investment would be in use for about 18 months following completion of the HVAC project and before the move to the new facility. While the County may be able to take the new units off the building prior to sale, most of our investment will be lost. In any event the County will already be creating a contingency plan should the units fail in the next 18 months, which will include short term aggressive work for home arrangements and placement of portable coolers in key locations. Relocation of personnel, if needed, would likely be to either a County building at the Airport or leased space downtown.

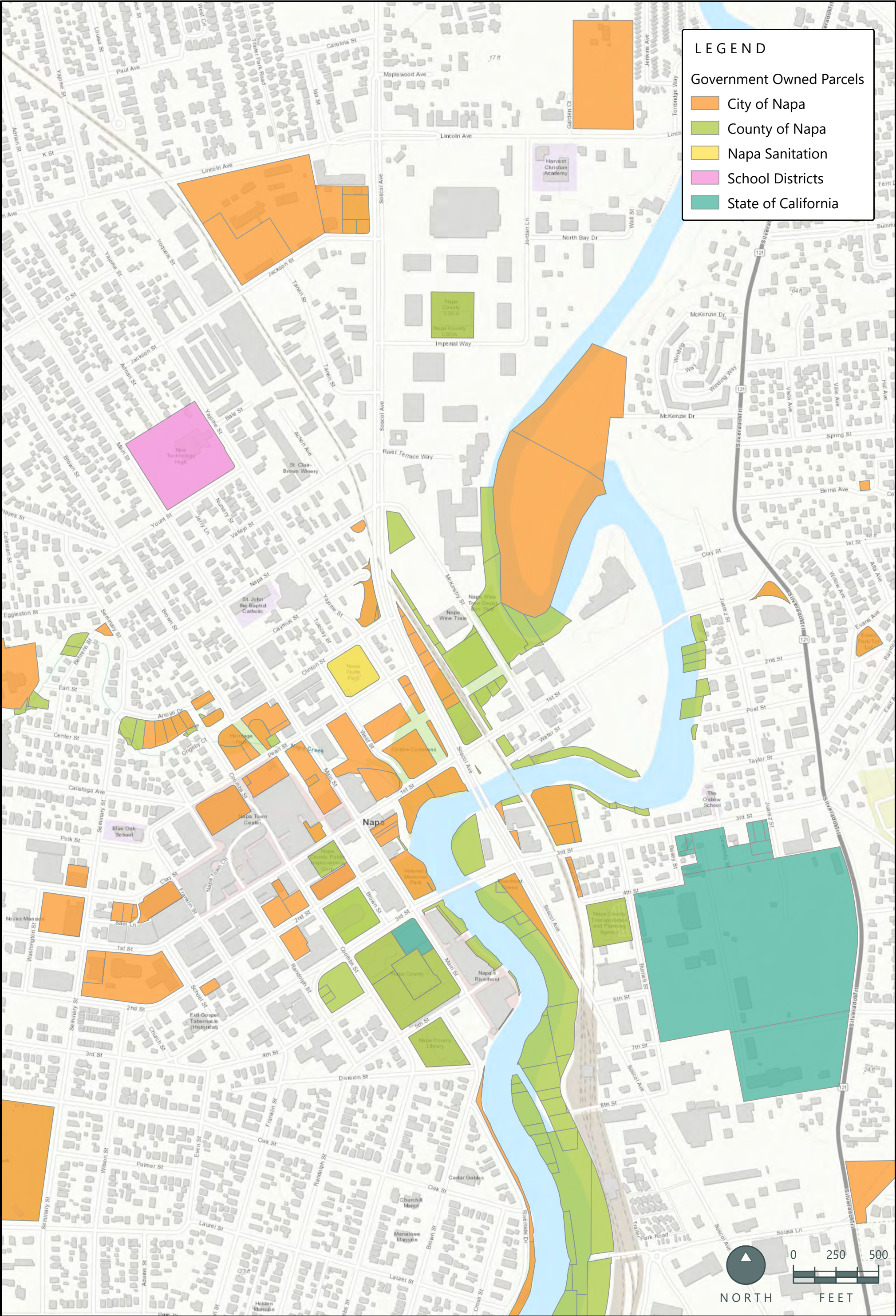
While recognizing the operational risks inherent in the situation, if the Board is in support of an aggressive approach to constructing a new structure downtown, then staff recommends the County halt work on the 1127 First Street HVAC project (and also the Sullivan Parking lot repaving project scheduled for this summer).

#### ATTACHED DOCUMENTS:

Map of Downtown Government Owned Properties

MFP Parallel Paths Plan





Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated herein. ...\\GIS\\-- for other departments\\PW\\Steve L - County Lands\\County Lands.aprx



# Master Facilities Planning

## Independent Parallel Paths Plan

### Goals:

Taken together, all the of the paths below meet the guidance we have so far received from the Board, but any of the paths can worked largely independently from the others based on funding and other resources. Path 1 has to be worked aggressively because of the uncertain life span of the HVAC unit at 1127<sup>th</sup> 1<sup>st</sup> Street.

#### Primary Goals:

1. Move County staff out of 1127 1<sup>st</sup> Street (highest priority)
2. Move County staff out of 650 Imperial,
3. Move County staff out of the current Jail/Hall of Justice (HOJ) complex
4. Move County Staff out of the Flood Building (Building is under control of Flood District)

This will allow all of these structures to be sold or dispositioned for another use.

#### Other Goals:

5. Relieve restrictions on Re-entry facility, allowing reuse possibly as second homeless shelter;
6. Look holistically, consider housing needs, shelters, non-profits, other non-county governmental agencies (such as Resource Conservation District);
7. Countywide effort to move to more electronic documents to reduce storage requirements;
8. Do a customer survey, listen to Department heads, and receive public input;
9. Look at transit access to facilities (look at shuttle bus between main county campuses and NVTAT transit center);
10. Consider building a new building for the Agricultural Commissioner at the Roads Yard in Yountville;
11. Improve space for Child Welfare Services at south campus;
12. Move Information and Technology Services (ITS) to South Campus (includes Radio System and Communications antennas from HOJ/Jail)
13. Talk to the School Districts and other government agencies about any useful vacant land

### Path 1, The Downtown Campus

1. Prepare/Release RFP; Select and Contract with Master Architect who will help us develop:
  - a. Space study to determine how much space we need now and in the foreseeable future;
  - b. Identifies needed adjacencies of Departments, and geographical needs (downtown or elsewhere);
  - c. Provide various scenarios for Board consideration, including broad cost estimates;
  - d. Considers other factors such as remote work and opportunities to use satellite offices around the County;
2. Construct a new building downtown, with adequate parking, likely on the Sullivan lot or the 3-hour surface lot. It could house:
  - a. All staff (DA, PD, CSS, Assessor/Recorder) currently in 1127 1<sup>st</sup>
  - b. Probation staff currently in the HOJ/Jail

- c. New Board Chamber (on 1<sup>st</sup> Floor), County Counsel, and County Executive Office (CEO) staff
  - d. Comprehensive Services for Older Adults (currently in 650 Imperial)
  - e. Include space for City of Napa needs if there is common agreement
- 3. Minor remodel of current admin building to accommodate:
  - a. Human Resources (HR) to 3<sup>rd</sup> floor (current County Counsel space)
  - b. Planning Building and Environmental Services (PBES) expands to 3<sup>rd</sup> floor (CEO space)
  - c. Public Works expands to HR space (including 1<sup>st</sup> floor conference room) & Basement
  - d. Parks/PBES/Fire staff currently in HOJ move to Admin
  - e. Flood staff move to Admin
- 4. Either surplus 1127<sup>th</sup> 1<sup>st</sup> (in accordance with the Surplus Lands Act (SLA)), or jointly develop with the City of Napa including the 2<sup>nd</sup> St. garage.
- 5. The County should also consider delivering the project using Design/Build (as opposed to Design/Bid/Build) as that process can often save time.

### **Path 2, The South Campus (and 650 Imperial)**

- 6. Construct a new Building 5 at the north end of the Campus, or remodel Building 4 (or combination thereof) to:
  - a. Move ITS from 650 Imperial, also move ITS Core radio function and antennas from HOJ (these might go to new Jail site)
  - b. Create improved space for Child Welfare Services
  - c. Create sufficient storage space for the County so that we can discontinue lease of warehouse space on Kaiser Road
  - d. Maintain space for Elected Officials leases
- 7. Surplus 650 Imperial in accordance with the SLA

### **Path 3, The current Jail/HOJ Complex**

- 8. “Day Court Holding” will be required forever in some form.
- 9. Current uses of the complex (except court holding) will be dispositioned as follows:
  - a. Corrections (117 people) move to new correction facility
  - b. Probation (55 people) move to new Administration Building
  - c. Sheriff Transport (18 people) are part of court holding
  - d. PBES Parks (4 people) and Fire (10 people) move to existing Administration Building
  - e. ITS Core radio function and antennas move to South Campus or new correction facility
- 10. Determine an end use, that could include:
  - a. Public Private partnership
  - b. Retail/Office/Housing
  - c. Room for non-profits, other government agencies

### **Path 4, Re-entry Facility**

- 11. Gain control of use of the re-entry facility, either by buying out the State (\$13M) or by some other means
- 12. Repurpose the facility as directed by the Board, perhaps for an additional Homeless Shelter

### **Path 5, Agricultural Commissioner and UC Extension**

- 13. Consider construction of a new facility at County owned land on Silverado Trail by the Rector Dam.



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0295

---

**TO:** Board of Supervisors  
**FROM:** Steven Lederer, Director of Public Works  
**REPORT BY:** Leigh Sharp, Deputy Director of Public Works - General Services  
**SUBJECT:** Authorization to sell County property located at 212 Walnut Ave., Napa CA

---

### **RECOMMENDATION**

PUBLIC HEARING 9:00 AM

Director of Public Works requests adoption of a resolution taking the following actions related to the sale of approximately 2,900 square feet of County-owned property located at 212 Walnut Avenue in the City of Napa (Property) for development of affordable housing:

1. Approval of Government Code Section 52201 Summary Report and finding that the sale of Property will create economic opportunity and result in the development of seven (7) units of for-sale affordable housing and job creation as the result of the anticipated construction of the new development;
2. Approval of and authorization for the Chair to sign Purchase and Sale Agreement No. 230350B and Escrow Instructions (Agreement) with Napa Community Development Fund, LP, for transfer of Property for fair market value of \$58,220 for the development of affordable housing;
3. Authorization for the Interim County Executive Officer, or designee, to execute all ancillary documents, and to take any other actions necessary for the purpose of transferring Property consistent with the terms and conditions of the Agreement; and
4. Find and determine that disposition of Property pursuant to the Agreement is exempt from the California Environmental Quality Act (CEQA).

### **EXECUTIVE SUMMARY**

On November 5, 2021, Napa County Real Estate Fund, LP (Buyers) closed escrow with the County finalizing the sale of the Old Sonoma Road property located at 2344 Old Sonoma Road. As part of the transaction, Buyers



were required by law to execute a restrictive covenant requiring 15% of the total units built on the property be sold or rented at affordable housing cost to lower income households.

The Buyers contacted County staff in April 2022 requesting to purchase an additional approximate 2,911 square feet of County property located at 212 Walnut Avenue (Property) on the County's Juvenile Justice Center parcel that is immediately adjacent to the Old Sonoma Road property (see attached Property description and plat map). Buyers stated that the purpose of their requested purchase was to give them the ability to add seven additional for-sale affordable housing units to their planned development (one for low income and six for moderate income households). These units would be added to the planned affordable housing units required to be built as a condition of the Old Sonoma Road sale.

Government Code Section 52201 authorizes the County to sell property for the purpose of creating "economic opportunity," which includes creation of affordable housing. Adoption of the requested resolution will complete the requirements of Government Code Section 52201 and will authorize sale of Property to Buyer for the fair market value of \$58,220 (the same per square foot price that was paid for the Old Sonoma Road property in November, 2021) for development of seven for-sale affordable housing units, pursuant to terms of the Agreement, including a required restrictive housing covenant and conditioned upon completion of project review and approval by the City of Napa. With 120 days of due diligence to allow for project review and approval by the City of Napa, the sale would close on or before July 12, 2023.

#### Procedural Requirements

1. Open Public Hearing
2. Staff Report
3. Public Comments
4. Close Public Hearing
5. Motion, second, discussion, and vote.

#### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Revenue from the sale will be deposited into Non Departmental General Fund (Org. 1050000; Acct. 48100).
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Approval of the sale will support the construction of seven for-sale affordable housing units.
Is the general fund affected?	Yes
Future fiscal impact:	Revenue from the sale is expected this fiscal year however, it could occur in early FY 23-24.
Consequences if not approved:	The Buyer will develop seven fewer affordable for-sale housing units than they would otherwise construct if the sale was approved.
County Strategic Plan pillar addressed:	Livable Economy for All

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: Disposition of the Property pursuant to the Purchase and Sale Agreement is exempt from California Environmental Quality Act (CEQA) review under 14 CCR Sections 15312 (Surplus Government Property Sales), 15061(b)(3) (General Rule), and 15268 (Ministerial Projects). Moreover, CEQA review for development of the Property will be conducted at such time as the Buyer (or developer) brings forward the development proposal to the City of Napa.

**BACKGROUND AND DISCUSSION**

On November 5, 2021, Napa County Real Estate Fund, LP (Buyers) closed escrow with the County finalizing the sale of the Old Sonoma Road property located at 2344 Old Sonoma Road. As part of the transaction, Buyers were required by law to execute a restrictive covenant requiring 15% of the total units built on the property be sold or rented at affordable housing cost to lower income households.

On or about April 6, 2022, the Buyers contacted County staff requesting to purchase an additional approximate 2,911 square feet of County property located at 212 Walnut Avenue (Property) on the County's Juvenile Justice Center parcel that is immediately adjacent to the Old Sonoma Road property. Buyers stated that the purpose of their requested purchase was to add seven additional for-sale affordable housing units to their planned development (one for low income and six for moderate income households). These units would be added to the planned affordable housing units required to be built as a condition of the Old Sonoma Road sale.

County Public Works staff met with Probation staff to talk about the requested acquisition, and Probation staff confirmed that they are not currently using Parcel A and have no future intended use for the area. Given the priority of creating needed affordable housing opportunities in the County, staff proceeded with negotiating a sale of the Property.

Government Code Section 52201 authorizes the County to sell property for the purpose of creating "economic opportunity," which includes creation of affordable housing when there is an identified affordable housing need, after certain requirements are satisfied. The County-adopted 2023-2031 Housing Element includes a housing needs assessment to adequately plan for the existing and projected future housing needs of residents. To meet projected housing needs to address the Regional Housing Needs Allocation (RHNA), the County's Housing Element identifies that 16 units of low income housing and 14 units of moderate income housing are needed. The addition of seven affordable housing units to be constructed on the Property will thus increase, improve, or preserve the supply of quality affordable housing that is needed in the community.

Government Code Section 52201 requires the Board to hold a public hearing to consider and adopt a resolution approving a summary report that describes specific financing elements of the proposed transaction and authorizing execution of a property disposition document, in this case a purchase and sale agreement (Agreement). Pursuant to Government Code Section 52201, public hearing notices were published in the Napa Register on February 28, 2023 and again on March 2, 2023. Copies of the summary report and the purchase and sale agreement were available for public inspection. The summary report, resolution, and proposed Agreement

are attached for reference.

As described in the summary report, under the proposed Agreement, the County will convey Property to enable the Buyers to develop seven affordable for-sale housing units (Improvements). Key terms of the sale agreement are as follows:

- County commits to transfer Property to Buyer for the construction of the Improvements.
- Property will convey to Buyer in fee in its “as-is” condition.
- Buyer will purchase Property for the fair market value of \$58,220. In addition, Buyer will also pay all amounts necessary to pay approved escrow, title, and recording fees and costs.
- Buyer agrees to record a restrictive covenant under which Buyer will restrict the Improvements for a period of 45-years for their intended affordable housing purpose.
- Buyer must comply with all government entities’ regulatory and administrative processes related to the land use approvals required for development of the Improvements.

Adoption of the requested resolution will complete the requirements of Government Code section 52201 and will authorize sale of Property to Buyer for the fair market value of \$58,220 for development of seven for-sale affordable housing units, pursuant to terms of the Agreement, including a required restrictive housing covenant and conditioned upon completion of project review and approval by the City of Napa. With 120 days of due diligence to allow for project review and approval by the City of Napa, the sale would close on or before July 12, 2023.

**SUMMARY REPORT PURSUANT TO GOVERNMENT CODE SECTION 52201  
ON THE AMENDMENT TO PURCHASE AND SALE AGREEMENT  
BY AND BETWEEN NAPA COUNTY AND NAPA COMMUNITY REAL  
ESTATE FUND, LP.**

I. Introduction.

The County of Napa (the "County"), has prepared a summary report (the "Summary Report") as required by Section 52201 of the Government Code, with regards to the County's proposed execution of a Purchase and Sale Agreement and Escrow Instructions ("Agreement") by and between the County and Napa Community Real Estate Fund, LP, a Delaware limited partnership (the "Partnership"), for the sale of approximately 2,911 square feet of real property located within the County generally located at the northwest corner of 212 Walnut Street, Napa, California (the "Property") to the Partnership.

Government Code Section 52201, authorizes the County, to sell or lease property to which it holds title for the purpose of creating economic opportunity. The County must first secure approval of the proposed sale from the County Board of Supervisors after a public hearing. A copy of the proposed Agreement and a summary report that describes and contains specific financing elements of the proposed transaction is required to be available for public inspection prior to the public hearing. As contained in the Code, the following information is included in the summary report:

- The cost of the Agreement to the County, including land acquisition costs, clearance costs, relocation costs, and the costs of any improvements to be provided by the County, plus the expected interest on any loans or bonds to finance the agreement;
- The estimated value of the interest to be conveyed, determined at the highest and best use permitted under the general plan and zoning;
- The estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed Agreement, i.e., the fair reuse value of the property;
- An explanation of why the sale of the property will assist in the creation of economic opportunity;
- If the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the County must provide as part of the summary an explanation of the reasons for the difference.

## II. Summary of Proposed Agreement.

Under the Agreement, the County will convey the Property to enable the Partnership to develop up to seven (7) affordable for-sale housing units on the Property (the "Improvements").

The salient aspects of the proposed Agreement are summarized as follows:

- The County commits to transfer Property to the Partnership for the construction of the Improvements.
- The County will convey the Property to the Partnership in fee in its "as-is" condition.
- The Partnership will pay the County \$58,220 for the Property.
- The Partnership will construct the Improvements on the Property.
- The County is not providing any direct or indirect financial assistance to the Partnership.
- The Partnership has agreed to record a Regulatory Agreement under which the Partnership will restrict for a term of 45 years: (a) one (1) housing unit for sale to a Low Income Household; and (b) six (6) housing units for sale to Moderate Income Households.
- The Partnership must comply with all government entities' regulatory and administrative processes related to the land use approvals required for the development of the Improvements.
- The Partnership is prohibited from any form of discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry, or source of income, in the hiring, firing, promoting or demoting of any person engaged in the construction of the Improvements.

## III. Cost of Agreement

This section presents the total estimated cost of the Agreement to the County. Pursuant to California Government Code Section 52201 (a)(2)(B)(i), the cost of the Agreement to the County includes all land acquisition costs, clearance costs, relocation costs, the cost of any improvements to be provided by the County, plus the interest on any loans or bonds to finance project under the terms of the Agreement. The net cost can be either an actual cost, when expenditures exceed receipts, or a net gain, when revenues created by implementation of the Agreement exceed expenditures.

The County acquired the property in 1869 as part of a larger acquisition and the estimated

acquisition cost for the Property is \$9.08.

The County's holding costs for the properties is de minimis.

The County has or expects to incur approximately \$30,000 on internal staff costs and approximately \$11,000 on third party costs, including; broker fees, legal fees, consulting fees, and other fees associated with the negotiation of the Agreement and associated land transfer documents.

#### IV. Estimated Highest and Best Use Value of the Interest to be Conveyed

Section 52201 requires the County to identify the value of the interest being conveyed at the highest use permitted under the general plan and zoning in place on the property. The valuation must be based on the assumption that the Property is vacant, and that near-term development is required. The highest and best use of a property, is that use of the property that generates the highest property value and is physically possible, financially feasible, and legally permitted. The valuation does not take into consideration any extraordinary use, quality, and/or income restrictions being imposed on the development by the County. The value at highest and best use is based solely on the value created and not on whether or not that use carries out the development goals and policies for the County as set forth in the Agreement.

This section presents an analysis of the fair market value of the property to be conveyed at its highest and best use. This section explains the value of the properties to be sold to the Partnerships and the consideration being provided by the Partnerships. The section indicates that the consideration being provided is not less than the highest and best use value of the property being conveyed.

The County estimates that the Property in its existing condition with its current land use designations would be valued at \$58,220 based upon the sale by the County to the Partnership of the adjoining property in November 2021. The purchase price of \$58,220 being paid by the Partnerships is based on the parties negotiation of the Property value extending the per square foot value that was paid by the Partnership for the adjoining property located at 2344 Old Sonoma Road in November 2021 and taking into account the impact on value of the property resulting from the use consistent with the Improvements to be developed. This price was established by a fair market value appraisal as \$7,500,000 which translates to a fair market value of the subject Property as equal to \$58,220.

#### V. Estimated Fair Re-Use Value of the Interest to be Conveyed

In calculating the fair re-use value, re-use value is defined as the highest price in terms of cash or its equivalent which a property or development right is expected to bring for a specified use in a competitive open market, subject to the covenants, conditions, and restrictions imposed by the Agreement. The Agreement covenants, conditions, or restrictions on the use of the Property are contained in the Regulatory Agreement.

The Partnership has elected to restrict the units to be constructed at the Property as for-sale affordable housing. The Agreement requires the Partnership to purchase the Property for the fair market value, at its highest and best use, which is the same price per square foot that the Partnership acquired the adjoining 8.6 acres of property.

The residual land value supported by the Improvements can be estimated as the difference between the total development costs (excluding acquisition costs) and the total available funding sources. The anticipated costs of development of the Improvements is estimated to be approximately \$600,000 to \$750,000 per unit for a total development cost of Improvements ranging from \$4,200,000 to \$5,250,000. The current affordable housing price range for low income units is between \$317,000 to \$360,000 and is between \$487,000 and \$552,000 for moderate income units. The Partnership estimates that the residual land value taking into account the affordability restriction is equal to or less than the proposed purchase price of \$58,220.

VI. Explanation of the Difference (if any) between the Compensation to be paid to the County under the Agreement and the Fair Market Value of the Property

Under Section 52201, the County is required to explain if the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the County must provide as part of this Summary Report an explanation of the reasons for the difference.

The Agreement and Regulatory Agreement imposes controls on the Property. Nonetheless, the Partnership has agreed to pay \$58,220 which is the equivalent of the estimated fair market value at the highest and best use under the allowable zoning, and equal to the fair reuse value.

VII. Creation of Economic Opportunity

The Improvements, when constructed, will create economic opportunity in the County. Section 52200.2 defines "economic opportunity" as any of the following:

- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that create, retain, or expand new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of County investment in the project after full capacity and implementation;
- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that increase property tax revenues to all property tax collecting entities, by at least 15 percent (15%) of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the government entity;

- Creation of affordable housing;
- Projects that meet the goals set forth in Chapter 728 of the Statutes of 2008 and have been included in an adopted sustainable communities strategy or alternative planning strategy or a project that specifically implements the goals of those adopted plans; or
- Transit priority projects, as defined in Section 21155 of the Public Resources Code.

The County is providing no direct or indirect financial assistance to the Partnership and the Partnership has agreed to create seven (7) units of affordable housing. The County has identified the following benefits that will result from implementation of the Agreement and will create economic opportunity as defined in Government Code Section 52200.2.

#### B. Creation of Affordable Housing

The creation of affordable housing to meet demonstrated affordable housing needs identified in the housing element of the County's general plan constitutes an economic opportunity. The County-adopted 2023-2031 Housing Element includes a housing needs assessment to adequately plan for the existing and projected future housing needs of residents. To meet projected housing needs to address the Regional Housing Needs Allocation (RHNA), the County's Housing Element identifies that 16 units of low income housing and 14 units of moderate income housing are needed. The Improvements to be constructed on the Property will thus increase, improve, or preserve the supply of quality affordable housing in the community. The development of the Improvements will result in seven (7) new for-sale affordable housing units on the Property for occupancy by low income and moderate income households.

#### C. Job Creation

Under Section 52200.2(a) economic opportunity is achieved is an agreement results in the creation, retention or expansions of new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of County investment in the project. As previously discussed, the County is not providing any financial assistance for the Improvements. Nevertheless, the sale of the Property under the Agreement will result in job creation as a result of the anticipated construction of the Improvements and the additional housing units to be developed on the adjacent property. During the construction of the Improvements and the additional housing units to be developed on the adjacent, it is anticipated approximately 55 full-time equivalent (FTE) temporary construction jobs. Upon completion and full implementation, the Improvements is also anticipated to generate an estimated 2.3 FTE permanent jobs.

#### D. Public Purpose



The transfer of the properties and construction of the Improvements will further the public purpose of economic development by creating jobs and much needed affordable housing.

**EXHIBIT 'A'**

**LEGAL DESCRIPTION  
TRANSFER PARCEL A**

*THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NAPA, COUNTY OF NAPA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:*

*BEING A PORTION OF THAT PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY BY DEED FILED FEBRUARY 8, 1869 AND RECORDED IN BOOK L OF DEEDS AT PAGE 304 IN OFFICE OF THE RECORDER OF NAPA COUNTY AND AS DELINEATED IN BOOK 49 OF SURVEYS, PAGE 19 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE SOUTHWESTERLY CORNER OF THE ABOVE MENTIONED PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY, SAID POINT BEING ON THE CENTER LINE OF OLD SONOMA ROAD AND ALSO BEING ON THE EASTERLY LINE OF WALNUT STREET, AND PROCEEDING THENCE NORTH 00° 01' 30" EAST ALONG THE EASTERLY LINE OF SAID WALNUT STREET ALSO BEING THE WESTERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO THE COUNTY OF NAPA BY GRANT DEED RECORDED JANUARY 15, 2003 IN DOCUMENT NUMBER 2003-0002109, 30.00 FEET TO THE NORTHEASTERLY CORNER OF OLD SONOMA ROAD AND WALNUT STREET SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID DOCUMENT 2003-0002109; THENCE CONTINUING ALONG THE EASTERLY LINE OF WALNUT STREET AND THE WESTERLY LINE OF SAID DOCUMENT 2003-0002109 NORTH 00° 01' 30" EAST, 367.80 FEET TO THE NORTHWEST CORNER OF SAID DOCUMENT 2003-0002109 AND THE **POINT OF BEGINNING**; THENCE LEAVING SAID EASTERLY LINE OF WALNUT STREET AND PROCEEDING ALONG THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 SOUTH 89°54'28" EAST, 130.49 FEET; THENCE SOUTH 00° 01' 30" WEST, 22.31 FEET; THENCE LEAVING THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 AND PROCEEDING NORTH 89°54'28" WEST, 130.49 FEET TO THE EASTERLY LINE OF WALNUT STREET; THENCE ALONG THE EASTERLY LINE OF WALNUT STREET NORTH 00° 01' 30" EAST, 22.31 FEET TO THE **POINT OF BEGINNING**.*

*SAID PARCEL CONTAINS 2,911 SQUARE FEET, MORE OR LESS.*

*BEARINGS AND DISTANCES SHOWN ARE BASED ON RECORD DATA FROM BOOK 42 OF SURVEYS, PAGE 19.*

ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS  
MADE PART HEREOF FOR INFORMATIONAL PURPOSES ONLY.



*Mark E. Woods* 02-13-2023  
MARK E. WOODS DATED  
R.C.E. 29851



## NAPA COUNTY AGREEMENT NO. 230350B

### PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

#### THIS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

("Agreement") is dated for reference purposes only, as of March 14, 2023, by and between NAPA COUNTY, a political subdivision of the State of California (hereinafter referred to as "**SELLER**" or "**COUNTY**"), and NAPA COMMUNITY REAL ESTATE FUND LP, a Delaware limited partnership (hereinafter referred to as "**BUYER**"). SELLER and BUYER shall be referred to from time to time hereinafter individually as "Party" or together as "Parties."

#### RECITALS

**WHEREAS**, BUYER purchased from SELLER that certain 8.6 acre parcel of real property – located at 2344 Old Sonoma Road, Napa, California, identified as Napa County Assessor's Parcel No. 004-291-015-000, with all rights, privileges, easements and appurtenances thereto, including, without limitation, all mineral and water rights, all permanent improvements and SELLER's personal property, fixtures, furniture and/or furnishings located thereon on or about November 8, 2021, are hereinafter collectively referred to as the "Original Property;" and

**WHEREAS**, BUYER now desires to purchase and SELLER desires to sell that certain approximate 2,911 square feet parcel of unimproved real property which is immediately adjacent to the Original Property with all rights, privileges, easements and appurtenances thereto, including, without limitation, all mineral and water rights, at Close of Escrow (the "Property") and is more particularly described on Exhibit A attached hereto.

**WHEREAS**, on March 14, 2023, the Board adopted Resolution 2023- \_\_\_\_\_ which determined that the Property disposition to the BUYER would create economic opportunity by creating affordable housing and creating jobs pursuant to Government Code section 52201, and establishing minimum price and other terms for sale of the property; and

**WHEREAS**, it is the Board's desire to sell the Property in a timely, expeditious manner to the BUYER to allow an increase in the number of low and moderate housing units to be constructed on the combined Property and Original Property which proposed use of the Property is subject to discretionary approvals required from the City of Napa; and

#### TERMS

**NOW, THEREFORE**, in consideration of the promises set forth herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SELLER agrees to sell and BUYER agrees to purchase the Property according to the terms and conditions in this Agreement, as follows:

1. **RECITALS.** The foregoing recitals are true and correct. The Parties agree that this Agreement shall not be deemed invalid because the description of the Property is not exact or is incomplete as of the Effective Date. An exact legal description of the Property will be agreed upon by the Parties and insured by the Title Company (as defined below) at Closing as hereinafter described.

2. **EFFECTIVE DATE.** This Agreement shall be effective as of the last date of execution by SELLER or BUYER, as indicated on the signature page below (the "**Effective Date**").
3. **PURCHASE PRICE.** BUYER agrees to pay to SELLER, and SELLER agrees to accept, for BUYER's purchase of the Property, the amount of Fifty-Eight Thousand Two Hundred Twenty Dollars (\$58,220.00) (the "**Purchase Price**") (both Parties' signatories to initial here: \_\_\_\_\_ / \_\_\_\_\_). In addition to the Purchase Price, BUYER shall also pay through escrow all amounts necessary to pay approved escrow, title and recording fees and costs.
4. **ENTIRE AGREEMENT.** THIS AGREEMENT 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. ANY WAIVER, MODIFICATION OR CONSENT WITH RESPECT TO ANY PROVISION OF THIS AGREEMENT MUST, IN ORDER TO BE ENFORCEABLE, BE SET FORTH IN WRITING AND DULY EXECUTED BY BOTH PARTIES AS AN AMENDMENT OF THIS AGREEMENT. PERFORMANCE OF THIS AGREEMENT CONSTITUTES THE ENTIRE CONSIDERATION FOR THE CONVEYANCE OF THE PROPERTY.
5. **BUYER'S OBLIGATIONS.**
  - a. **DEPOSIT AND TERMS GOVERNING DEPOSIT.**
    - i. BUYER has delivered to SELLER a deposit in the sum of Two Hundred Dollars (\$200.00) ("**Deposit**") in the form of a cashier's check made payable to Placer Title Company, whose address is 5 Financial Plaza, #205, Napa, California 94558, and whom the Parties agree will serve as escrow holder for the Property's purchase (the "**Escrow Holder**"). The Deposit shall be refundable to BUYER during the Due Diligence Period, as defined below. If BUYER elects to proceed with the transaction at the expiration of the Due Diligence Period, the Deposit shall then be non-refundable to the BUYER except in the event of a SELLER's default that results in a termination of this Agreement or otherwise provided in Paragraphs 8 and 16.
    - ii. BUYER and SELLER shall open escrow with Escrow Holder. Upon opening of escrow, SELLER shall deliver the Deposit to the Escrow Holder.
    - iii. The Deposit shall become non-refundable upon the BUYER's waiver of contingencies to Close of Escrow or upon the date upon which the BUYER is deemed to have waived all contingencies as specified below, whichever occurs first, and the Deposit shall then be credited toward payment of the Purchase Price at the Close of Escrow. This Paragraph's non-refundability provision shall be inapplicable in the event of a material breach of this Agreement by SELLER or in the event that this Agreement is terminated and the escrow is cancelled pursuant

to the provisions of Paragraph 14, below. All days referenced in this Agreement shall mean calendar days unless otherwise specified.

- iv. Within five days after Escrow Holder receives the Deposit and places it in the interest-bearing account, Escrow Holder shall release One Hundred Dollars (\$100) of the deposited funds (the “**Independent Consideration**”) to SELLER as and for independent consideration for SELLER's execution of this Agreement and the granting of the contingency period to BUYER as herein provided. Such Independent Consideration is non-refundable to BUYER and shall not be considered part of the Deposit after the Deposit is received by Escrow Holder, but the Independent Consideration shall be credited toward the BUYER's payment of the Purchase Price at Close of Escrow, if such occurs.

b. **PAYMENT OF PURCHASE PRICE AND OTHER CHARGES.**

- i. Prior to, and as a condition of Close of Escrow, BUYER shall pay into escrow the amount of money necessary to yield net funds payable by the Escrow Holder to SELLER at the Close of Escrow in the amount of the Purchase Price, and BUYER shall also pay into escrow the amount of money necessary to pay any and all escrow fees, title insurance premiums, and real property transfer or other taxes necessary for consummation of the purchase (which shall also be the sole responsibility of BUYER). If, however, escrow is terminated as a result of SELLER's default of this Agreement then SELLER shall pay any Title Company and Escrow Holder cancellation fees and costs.
- ii. BUYER shall deposit such additional funds necessary to satisfy its obligation to pay the Purchase Price with Escrow Holder, by federal funds wire transfer, or any other method acceptable to Escrow Holder in immediately collectable funds, no later than 2:00 P.M. Pacific Time on the business day prior to the Expected Closing Date; provided, however, that BUYER shall not be required to deposit such monies into Escrow if, at the time set for the deposit of such monies, SELLER is in default or has indicated that it will not perform any of its obligations hereunder. Instead, in such circumstances in order to reserve its rights to proceed, BUYER need only provide the Escrow Holder with evidence establishing that the required monies are available.

- c. **Completion of Project Review by City of Napa.** Prior to, and as a condition of Close of Escrow, BUYER shall have completed all environmental review processes and other public review and hearing processes required by City of Napa and received final approval for creation of the housing units. SELLER shall have no obligation to close escrow and convey the Property until all environmental review and entitlements have been approved by City. If said reviews and approvals have not been completed on or before the end of the Due Diligence Period, Seller shall have the unilateral right, but not the obligation, to terminate this Agreement.

- 6. **SELLER'S OBLIGATIONS.** Prior to, and as a condition of the Close of Escrow, SELLER shall deposit into escrow a Grant Deed in the form attached hereto as **Exhibit B** (the “**Grant**

**Deed**”), which shall convey from SELLER to BUYER fee title to the Property subject only to the Permitted Exceptions (as defined below). Prior to the Expected Closing Date, SELLER shall execute and submit to the Escrow Holder an affidavit to the effect that (a) SELLER is not a "foreign person" within the meaning of Internal Revenue Code Section 1445 or successor statutes, and (b) that SELLER is not a "nonresident" within the meaning of California Revenue and Tax Code Section 18662 or successor statutes.

7. **ESCROW INSTRUCTIONS.** Promptly following the Effective Date, the Parties shall deposit with Escrow Holder a copy of this Agreement. By its execution and delivery of this Agreement, Escrow Holder agrees to be bound by the terms and conditions of this Agreement to the extent applicable to its duties, liabilities and obligations as “Escrow Holder” hereunder. Escrow Holder shall hold and dispose of the Deposit in accordance with the terms of this Agreement. The Escrow Holder’s General Provisions are attached hereto as **Exhibit C** and made a part hereof. This Agreement shall constitute not only the agreement of purchase and sale between BUYER and SELLER, but also instructions to Escrow Holder for the consummation of the purchase and sale through the escrow. Escrow Holder shall not prepare any further escrow instructions restating or amending the Agreement unless specifically so instructed by both Parties. Buyer and Seller may execute and deliver such supplemental escrow instructions and closing documents consistent with this Agreement as they may deem necessary or desirable (“**Supplemental Instructions**”). The Supplemental Instructions shall not modify or amend the provisions of this Agreement unless otherwise set forth in a separate written document signed by duly authorized representatives of both Buyer and Seller, including each Party’s respective attorneys. In the event that there is any conflict between the provisions of this Agreement and the provisions of any Supplemental Instructions, the provisions of this Agreement shall prevail and control as to the Parties and the Escrow Holder.

8. **DUE DILIGENCE PERIOD AND TITLE REVIEW.**

- a. Subject to the terms of Paragraph 12, BUYER shall have one hundred twenty (120) days from the Effective Date (the “**Due Diligence Period**”), to review all entitlements for BUYER’s intended use and make any and all inspections, investigations, tests, surveys and appraisals of the Property as BUYER deems necessary or desirable including, without limitation, title matters, studies relating to environmental and soil conditions of the Property, and whether the Property is suitable for BUYER’s intended use of the Property, and any other matters BUYER determines relate to the Property; provided, however, BUYER shall not undertake any Phase II environmental testing or any destructive testing on the Property or of any buildings or other structures thereon, without SELLER’s written consent, which consent may be withheld or granted in SELLER’s sole and absolute discretion. BUYER may terminate this Agreement and receive a refund of the remaining Deposit by providing notice of such termination to Seller and Escrow Holder thereof at any time prior to expiration of the Due Diligence Period as specified more fully in Paragraph 10.
- b. Within the time periods set forth below, BUYER shall have the right to approve, in its sole and absolute discretion, a preliminary report or title commitment for the Property (the “**Title Commitment**”) and all exceptions and other title matters referenced therein, or disclosed by any ALTA survey of the Property that BUYER may elect to obtain (the



“Survey”). (All such exceptions and title matters are referred to herein as the “**Exceptions**”). Immediately following the Effective Date, Escrow Holder shall at BUYER'S expense order the Title Commitment with copies of all Exceptions to title set forth on such report, which Title Commitment and Exceptions Escrow Holder shall deliver to Buyer with a copy to Seller. BUYER at its expense may order a Survey. The Survey (if any), Title Commitment, and copies of all Exceptions to title set forth on the Title Commitment are collectively referred to below as the “**Title Documents.**” BUYER shall have until 5:00 p.m. (Pacific Time) sixty (60) days from the Effective Date (“**Title Inspection Period**”) to give Seller written notice of Buyer's objections to or disapproval of any Exception(s) disclosed by the Title Documents (the “**Objection(s)**”). The failure of BUYER to so object to an Exception set forth on the Title Commitment or any Survey within the specified time period shall be deemed BUYER's approval of said Exception. Within ten (10) days after its receipt of the Objections, with respect to each Objection, SELLER shall notify BUYER whether SELLER (i) will cure or eliminate such Objection from title on or prior to Closing or (ii) is unwilling or unable to cure or have such Objection eliminated from title to the Property on or prior to Closing (“**Seller's Title Notice**”), and SELLER shall cure or eliminate from title to the Property prior to Closing any such Objection Seller has agreed to so cure or eliminate. If SELLER fails to timely deliver such a Seller's Title Notice as to a particular Objection within such ten (10) day period, then Seller shall be deemed to have made the election in clause (ii) above. If SELLER elects not to remove any Objection or is deemed to have made an election not to remove an Objection, then BUYER shall have until the end of the Due Diligence Period to notify SELLER that either (1) BUYER is willing to purchase the Property subject to such Objection(s), upon the satisfaction of the remaining conditions to the Closing or (2) BUYER elects to terminate this Agreement. Any such Objection(s) that BUYER has elected to take title to the Property subject to, shall be deemed to be a Permitted Exception. Any failure by BUYER to so terminate this Agreement shall constitute BUYER's election to proceed as specified in subclause (1) above. Any termination of this Agreement pursuant to this Paragraph 8(b) shall have the same effect as termination pursuant to Paragraphs 8(a) and Paragraph 10.

- c. As used herein, “**Permitted Exceptions**” means any and all Exceptions (a) approved in writing by BUYER or deemed approved pursuant to the terms of this Agreement, (b) all real estate taxes and assessments for the Property not yet due and payable, and/or (c) any Exceptions caused by Buyer or any employee, agent or contractor thereof.
- d. No extension of the Due Diligence Period shall be granted.

## 9. **INTENTIONALLY OMITTED.**

- 10. **TIME FOR BUYER TO WAIVE CONTINGENCIES TO CLOSE OF ESCROW.** As specified above, BUYER shall have until 5:00 p.m. Pacific Time on the last day of the Due Diligence Period in which to cancel escrow and withdraw from the purchase of the Property or to waive all contingencies set forth in Paragraphs 8(a) and (b) and proceed to Close of Escrow on BUYER's purchase of the Property on the terms and conditions specified herein. To exercise the right to cancel the escrow and this Agreement pursuant Paragraphs 8(a) and 8(b), BUYER must take steps to ensure actual receipt by the Escrow Holder and by SELLER of the BUYER's

written Notice of Cancellation of this Agreement and escrow resulting therefrom (the “**Cancellation Notice**”) prior to 5:01 P.M. on the last day of the Due Diligence Period. To be effective, the Cancellation Notice must be signed by an authorized representative of BUYER.

**IF BUYER DOES NOT PROVIDE THE CANCELLATION NOTICE, WHICH IS ACTUALLY RECEIVED BY ESCROW HOLDER AND SELLER NO LATER THAN 5:00 P.M. PACIFIC TIME ON THE LAST DAY OF THE DUE DILIGENCE PERIOD, IT SHALL BE CONCLUSIVELY PRESUMED THAT BUYER HAS WAIVED ALL CONTINGENCIES TO CLOSE OF ESCROW AS SET FORTH IN PARAGRAPHS 8(A) AND 8(B).**

Unless the Parties otherwise agree in writing, and except as provided in Paragraph 16(c) [Closing Conditions], if and only if BUYER provides such written notice to the Escrow Holder and SELLER, no later than 5:00 P.M. Pacific Time on the last day of the Due Diligence Period, that BUYER is withdrawing from the purchase and cancelling escrow and this Agreement, then BUYER shall receive a return from the Escrow Holder of the Deposit, less only: (a) the Independent Consideration paid to SELLER as consideration for SELLER’s execution of this Agreement and the granting of the contingency period to BUYER as provided above, and (b) any and all Title Company and Escrow Holder cancellation fees and costs, all of which shall be BUYER's obligation. Upon any such termination of this Agreement, neither BUYER nor SELLER shall have any further duties or obligations hereunder, except for those obligations that are expressly stated to survive such termination.

11. **DURATION AND CLOSE OF ESCROW.** For purposes of this Agreement and any other escrow instructions, the Close of Escrow shall occur fifteen (15) days from the expiration of the Due Diligence Period or the waiver of BUYER’s contingencies, whichever occurs earliest (the “**Expected Closing Date**”). Subject to satisfaction of the contingencies and obligations set forth in this Agreement as set forth or summarized in Paragraph 16(c) below, Escrow Holder shall close the escrow (the “**Closing**” or “**Close of Escrow**”) by recording the Grant Deed executed by SELLER and the other documents required to be recorded, including the Restrictive Covenant (as defined below) attached hereto as **Exhibit D** and by disbursing the funds and documents in accordance with this Agreement.
12. **BUYER'S ENTRY UPON PROPERTY DURING ESCROW.** Subject to compliance with the insurance requirements set forth below and the limitations set forth in Paragraph 8(a), at any time during the Due Diligence Period, BUYER and its agents and representatives shall have the right, at reasonable times and with reasonable advance written notice, in a way that does not disturb SELLER's use of the Property, to enter upon the Property for the purpose of making inspections and tests. No destructive or Phase II testing shall be conducted, however, without SELLER's written prior approval as specified in Paragraph 8(a). Following any such entry or work, unless otherwise directed in writing by SELLER, BUYER shall return the Property to the condition it was in prior to such entry or work, including the recompaction or removal of any disrupted soil or material as SELLER may reasonably direct. All such inspections and tests and any other work conducted or materials furnished with respect to the Property by or for BUYER shall be paid for by BUYER as and when due and BUYER shall indemnify, defend (with counsel reasonably acceptable to SELLER), protect and hold harmless SELLER, any and all agents, employees and contractors of its agent, and the Property of and from any and all claims, liens, liabilities, losses,

expenses (including reasonable attorneys' fees), damages, including those for injury to person or property, arising out of or relating to any such work or materials or the acts or omissions of BUYER, its agents or employees in connection therewith. BUYER and any and all agents, employees and contractors of BUYER who enter upon the Property for purposes of conducting any inspections or tests (collectively "**BUYER and its Agents**") shall have, and continue to have, the following insurance coverage in full force and effect as a condition of any entry or continued entry onto the Property or any portion thereof, and such insurance shall be maintained in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement:

- a. Workers' Compensation Insurance. To the extent required by law, BUYER and its Agents shall provide Workers' Compensation insurance for the performance of any of BUYER's and its Agents' duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability, and a waiver of subrogation.
- b. Liability Insurance. 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:
  - i. General Liability. Commercial or comprehensive general liability insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, either issued by a company admitted to do business in the State of California and having an A.M. Best Rating of no less than A:VII or by self-insurance satisfactory to SELLER's Risk Manager, or by a combination thereof, covering liability 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 that Party under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.
  - ii. Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance policy (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with that Party's activities under this Agreement 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.
- c. Certificates of Coverage, Waiver of Subrogation and Additional Insureds. Insurance coverages referenced in 12(a) and (b), above, shall be evidenced by one or more certificates of coverage and copies of applicable endorsements or, with the consent of SELLER's Risk Manager, demonstrated by other evidence of coverage acceptable to SELLER's Risk Manager, which shall be delivered by BUYER to SELLER prior to each of BUYER and its Agents entry onto the Property, or any one of them (and anytime thereafter as may be requested by SELLER).
  - i. The certificate(s) or other evidence of coverage shall reference this Agreement by its SELLER number or title and department shall be kept current during the term

of this Agreement; shall provide that SELLER shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, 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.

- ii. For the commercial general liability insurance coverage referenced in 12(b)(i) and, for the comprehensive automobile liability insurance coverage referenced in 12(b)(ii) where the vehicles are covered by a commercial policy rather than a personal policy, BUYER shall also deliver to SELLER with the evidence of coverage an endorsement from the insurance provider naming SELLER and its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers' Compensation insurance coverage, BUYER shall deliver to SELLER with the evidence of coverage an endorsement waiving subrogation.
- iii. The certificate or other evidence of coverage shall provide that if the same policy applies to activities of BUYER not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of SELLER shall pertain only to liability for activities of BUYER under this Agreement, and that the insurance provided is primary coverage to SELLER with respect to any insurance or self-insurance programs maintained by SELLER.
- d. INTENTIONALLY OMITTED.
- e. Deductibles/Retentions. Any deductibles or self-insured retentions shall be disclosed to SELLER's Risk Manager.
- f. Inclusion in Subcontracts. BUYER agrees and acknowledges that the above-referenced liability and Workers' Compensation insurance requirements shall apply to all subcontractors and any other entity or person who is involved in providing services under this Agreement involving any entry onto the Property, or any portion thereof, and BUYER shall require compliance of said persons or entities with such insurance requirements set forth in this Paragraph 12.

**13. INTENTIONALLY OMITTED.**

**14. BUYER'S PURCHASE OF PROPERTY IN AS-IS CONDITION WITHOUT RELIANCE ON ANY REPRESENTATIONS OR WARRANTIES FROM SELLER, AND WITHOUT ANY RIGHT OF CONTRIBUTION OR INDEMNITY FROM SELLER.**

- a. BUYER agrees and acknowledges that it is purchasing the Property at Close of Escrow in "as-is", "where-is" condition with all faults.

- b. BUYER further agrees, acknowledges and represents that in purchasing the Property, it is not relying at all on any representations or warranties by SELLER relating in any manner to the Property, and that SELLER is not and shall not be required to remove, pay for, contribute to the payment for, or to indemnify or hold BUYER or anyone else harmless against the costs of any removal or cleanup of improvements, fixtures, personal property, Hazardous Materials (as defined below), or dangerous conditions located on or affecting the Property. BUYER further acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, including but not limited to, warranties with respect to the fitness of the Property for a particular purpose or the suitability of the Property for BUYER's intended use thereof.
- c. BUYER acknowledges that by the time for waiver of all contingencies to the Closing as provided above, BUYER must and will have either waived or caused to be conducted all inspections and investigations of the Property that BUYER believes are necessary to protect its own interests in, and its contemplated use of, the Property. The Parties acknowledge that, except as otherwise stated in this Agreement, no representations, inducements, promises, agreements, assurances, oral or written, concerning the Property, or any aspect of the occupational safety and health laws, Hazardous Materials laws, or any other act, ordinance or law, have been made by either Party or SELLER's Broker, or relied upon by either Party hereto. Any environmental reports, soils reports, surveys, and other similar documents which were prepared by third party consultants and provided to BUYER by SELLER or SELLER's representatives, have been delivered as an accommodation to BUYER and without any representation or warranty as to the sufficiency, accuracy, completeness, and/or validity of said documents, all of which BUYER relies on at its own risk.
- d. Notwithstanding anything to the contrary in this Paragraph, in the event any Hazardous Materials found on, under or incorporated into the ground portion of the Property are determined to have been placed or discharged thereon by predecessors of SELLER or by tenants of SELLER or other third parties without the consent of SELLER, BUYER and SELLER agree to cooperate with each other in the pursuit of all reasonably available remedies to ensure that financial responsibility for the costs of any required cleanup by SELLER or BUYER is borne by such third parties to the extent such third parties are legally responsible. As used herein, "**Hazardous Materials**" means any pollutants, contaminants, hazardous or toxic substances, materials or wastes (including petroleum, petroleum by-products, radon, asbestos and asbestos containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing equipment, radioactive elements, infectious agents, and urea formaldehyde), as such terms are used in any applicable environmental laws and/or regulations.
- e. Except for matters arising from Seller Parties' (as defined below) intentional fraud or misrepresentation, BUYER, for itself and its agents, affiliates, successors and assigns, hereby releases and forever discharges SELLER and its directors, officers, principals, consultants, representatives, attorneys, agents and employees, successors and assigns (collectively with Seller, the "**Seller Parties**"), from and against any and all claims,

actions, causes of action, demands, liabilities, damages, costs and expenses (including attorneys' fees and costs), whether known or unknown at the time of this Agreement, which BUYER has or may have in the future, arising out of the physical, environmental, economic or legal condition of the Property. For the foregoing purposes, BUYER hereby specifically waives the provisions of Section 1542 of the California Civil Code ("**Section 1542**") and any similar law of any other state, territory or jurisdiction. Section 1542 provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

**BUYER'S  
INITIALS:** \_\_\_\_\_

BUYER hereby specifically acknowledges that BUYER has carefully reviewed this subsection and discussed its import with legal counsel and that the provisions of this subsection are a material part of this Agreement. The provisions of this Paragraph 14 shall survive Closing.

15. INTENTIONALLY OMITTED.

16. **DOCUMENTS REQUIRED AT OR BEFORE CLOSING; CLOSING CONDITIONS AND CLOSING PROCEDURES.**

- a. SELLER's Deliveries. The following documents shall be submitted by SELLER to Escrow Holder at or prior to the Expected Closing Date:
  - i. the Grant Deed duly acknowledged and executed by SELLER;
  - ii. an original of the Amended Restrictive Covenant (defined below) duly acknowledged and executed by SELLER;
  - iii. an affidavit certifying that Seller is not a foreign entity under the Foreign Investment in Real Property Act as specified in Paragraph 6;
  - iv. a California Form 593-C in the current form as established by the California Franchise Tax Board as specified in Paragraph 6;
  - v. an executed Closing statement reasonably acceptable to Seller;
  - vi. any other document or agreement required by this Agreement and/or such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

b. BUYER's Deliveries. The following documents and sums shall be submitted by BUYER to Escrow Holder at or prior to the Expected Closing Date:

- i. sufficient immediately available wire transfer funds which, when added to the Deposit and accrued interest are sufficient to pay the (x) Purchase Price and (y) BUYER's share of closing costs;
- ii. an original of the Amended Restrictive Covenant duly acknowledged and executed by BUYER;
- iii. an executed closing statement reasonably acceptable to BUYER; and
- iv. any other document or agreement required by this Agreement and/or such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

c. Closing Conditions.

- i. Conditions to BUYER's Obligations: BUYER will have no obligation to purchase the Property and consummate the Closing unless each of the following conditions precedent has been satisfied or waived by BUYER as of the Expected Closing Date:
  1. Title Company shall issue or be unconditionally and irrevocably committed to issue to BUYER the Title Policy (as defined below);
  2. Seller and Escrow Holder, respectively, shall have performed all of their covenants and obligations set forth in this Agreement;
  3. BUYER shall not have terminated this Agreement pursuant to the contingencies set forth in Paragraph 8; and

If any of the conditions precedent in favor of BUYER set forth in Paragraph 16(c)(i) are neither satisfied nor waived by BUYER by the Expected Closing Date, then, BUYER (at its option) may terminate this Agreement by giving a notice of termination to SELLER as and to the extent provided in Paragraph 10. In the case any such termination, (i) the escrow shall terminate, (ii) BUYER will have no further obligation to purchase the Property from Seller, (iii) Seller will have no further obligation to sell the Property to BUYER, and (iv) the Parties will have no further obligation to one another, except as otherwise expressly provided herein. In the event of such a termination, the Deposit (exclusive of the Independent Consideration) shall be returned to BUYER. Notwithstanding anything to the contrary contained herein, in the event of a failure of any condition precedent specified in this Paragraph 16(c)(i) that is caused by a default hereunder on the part of SELLER, then in lieu of terminating this Agreement and escrow pursuant to this Paragraph, then BUYER shall be entitled to exercise its rights pursuant to the provisions of Paragraph 22(c).

ii. Conditions to SELLER'S Obligations: SELLER will have no obligation to sell the Property and consummate the Closing unless each of the following conditions precedent has been satisfied by Seller as of the Expected Closing Date:

1. BUYER and Escrow Holder, respectively, shall have performed all of its covenants and obligations set forth in this Agreement;
2. BUYER shall not have terminated this Agreement pursuant to the contingencies set forth in Paragraph 8;
3. BUYER has completed all applicable environmental review and approval in compliance with the California Environmental Quality Act for the development of the Improvements; and

If any of the conditions precedent in favor of Seller set forth in this Paragraph 16(c)(ii) are not satisfied by the Closing Date, then Seller (at its option) may terminate this Agreement by giving a notice of termination to BUYER as and to the extent provided in Paragraph 11. In the case of any such termination, (i) the escrow shall terminate, (ii) SELLER will have no further obligation to sell the Property to BUYER, (iii) BUYER will have no further obligation to purchase the Property from Seller, and (iv) the Parties will have no further obligation to one another, except as otherwise expressly provided herein. In the event of such a termination, the remaining Deposit shall be returned to Buyer. Notwithstanding anything to the contrary contained herein, in the event of a failure of any condition precedent specified in this Paragraph 16(c)(ii) that is caused by a default hereunder on the part of BUYER, then in lieu of terminating this Agreement and escrow pursuant to this Paragraph 16(c)(ii), SELLER shall be entitled to exercise its rights pursuant to the provisions of Paragraph 22(b).

d. Closing Procedures. On the Expected Closing Date, Escrow Holder will close escrow as follows:

- i. record the Grant Deed (marked for return to BUYER) with the County Recorder of the County, which will be deemed delivered to BUYER;
- ii. record the A&R Restrictive Covenant with the County Recorder of the County and provide copies thereof with the recordation contained thereon to BUYER and SELLER;
- iii. reissue the Title Policy, and cause it to be delivered to BUYER;
- iv. charge BUYER for those costs and expenses to be paid by BUYER pursuant to this Agreement and disburse any net funds remaining after the preceding disbursements to BUYER;
- v. disburse to SELLER the Purchase Price remaining after payment of any prorated amounts and charges to be paid by or on behalf of Seller, and disburse to BUYER the balance of any remaining funds in Escrow;



- vi. prepare and deliver to both Purchaser and Seller one signed copy of Escrow Holder's closing statement showing all receipts and disbursements of the Escrow;
  - vii. deliver to BUYER the FIRPTA Affidavit and the California Form 593-C (or any successor thereto);
  - viii. deliver any other documents and complete such other acts as required of Escrow Holder hereunder; and
  - ix. close escrow within the meaning of Section 6045 of the Internal Revenue Code of 1986, as amended (the "**Code**"), and promptly file all necessary information reports and returns regarding this transaction as required by the Code, including, without limitation, the returns required pursuant to Section 6045 of the Code.
17. **TITLE INSURANCE.** At Closing, Escrow Holder shall cause to be issued to BUYER a standard coverage owner's form policy of title insurance effective as of the Closing, issued by Placer Title Company or any national title insurance company, such as Stewart Title, which underwrites policies for escrows handled by Escrow Holder, ("**Title Company**") in the full amount of the Purchase Price, insuring title to the Property vested in BUYER, subject only to the Permitted Exceptions (the "**Title Policy**"). At its own costs, to the extent available, BUYER may elect to obtain ALTA extended coverage owner's title policy and/or any endorsements BUYER deems appropriate, but such extended coverage shall not be a condition of Closing.
18. **INSURANCE.** Any insurance which SELLER may have maintained for the Property or any insurance thereon will terminate on the Closing. It is BUYER's sole responsibility to obtain appropriate insurance to cover the Property after Closing.
19. **COVENANT OF AFFORDABILITY.** BUYER, in connection with the sale of the Original Property, committed to construct, or cause to be constructed on the Property, a housing development with at least fifteen percent (15%) of the total number of dwelling units, (the "**Affordable Units**"), to either be sold at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code ("**H&SC**"), to lower income households, as defined in Section 50079.5 of the H&SC, or very low income households, as defined in Section 50105 of the H&SC. These affordability requirements are set forth in a Restrictive Covenant ("**Original Restrictive Covenant**") recorded against the Original Property as Instrument No. 2021-0034551. BUYER and SELLER will enter into an amended restricted covenant (the "**A&R Restrictive Covenant**") which will provide that in consideration of the sale of the Property to BUYER, the Housing Project will contain one additional housing unit to be sold to low income (as defined in H&SC Section 50105) home buyer and six additional housing units to be sold to moderate income (as defined in H&SC Section 50093) homebuyers, which units shall be in excess of the Affordable Units required under the Original Restrictive Covenant. The A&R Restrictive Covenant shall restrict the affordable housing cost or affordable rent of the dwelling unit for a term of 45 years from the date a certificate of occupancy is issued for the dwelling units and shall be enforceable as described in Government Code Section 54233 and 54222.5 against any owner who violates a covenant or restriction and each successor in interest who continues the violation. The Parties agree that the covenants and restrictions set forth in such A&R Restrictive Covenant shall run with the land, shall not be subordinated to any deed of trust,

and shall bind all successors in title to the Property, provided, however, that on the expiration of the 45-year term, said covenants and restrictions shall expire.

20. **NO LEASES.** SELLER warrants that there are currently no oral or written leases on all or any portion of the Property.
21. **INTEGRITY OF PROPERTY.** Except as otherwise provided herein or by express written permission granted by BUYER, SELLER shall not, after the Effective Date until the Close of Escrow, alienate, lien, encumber or transfer the Property or any interest therein or allow the same to occur, intentionally cause or allow any physical changes on the Property, or enter into a lease or contract with respect to the Property or any portion thereof, which would survive the Close of Escrow and otherwise materially impair BUYER's use of the Property.
22. **DEFAULT.**
- a. **Notice of Default; Cure Period.** With respect to a default or breach by either Party hereunder, neither Party will be in default under this Agreement unless and until the other Party gives the defaulting Party written notice specifying the default or defaults and such default or defaults have not been cured within two (2) business days from the defaulting Party's receipt of such notice.
- b. **Liquidated Damages.** **IF BUYER FAILS TO COMPLETE THE PURCHASE PROVIDED FOR IN THIS AGREEMENT BY REASON OF ANY DEFAULT OF BUYER, SELLER SHALL BE RELEASED FROM SELLER'S OBLIGATION TO SELL THE PROPERTY TO BUYER. FURTHER, BY INITIALING THIS PARAGRAPH 22(b) BUYER AND SELLER AGREE AND UNDERSTAND THAT IN EVENT OF DEFAULT BY BUYER, (A) IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX ACTUAL DAMAGES; (B) AN AMOUNT EQUAL TO THE DEPOSIT HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES IF THE CLOSING DOES NOT OCCUR BY REASON OF BUYER'S DEFAULT HEREUNDER AND SHALL CONSTITUTE LIQUIDATED DAMAGES PAYABLE TO SELLER; (C) THE PAYMENT OF THE LIQUIDATED DAMAGES TO SELLER SHALL CONSTITUTE THE EXCLUSIVE AND SOLE REMEDY OF SELLER AT LAW OR IN EQUITY; (D) SELLER MAY RETAIN THAT PAYMENT ON ACCOUNT OF THE PURCHASE PRICE FOR THE PROPERTY AS LIQUIDATED DAMAGES; AND (E) PAYMENT OF THOSE SUMS TO SELLER AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. THE PARTIES HAVE FREELY NEGOTIATED THE FOREGOING LIQUIDATED DAMAGES PROVISION IN GOOD FAITH. NOTHING SET FORTH IN THIS PARAGRAPH 22(b) SHALL SERVE TO LIMIT ANY INDEMNITY OBLIGATION OF BUYER UNDER THIS AGREEMENT OR ANY POST-CLOSING OBLIGATION OF BUYER.**

**BUYER'S  
SIGNATURE:** \_\_\_\_\_

**SELLER'S  
SIGNATURE:** \_\_\_\_\_

- c. SELLER Default. IF, AT CLOSING, SELLER IS IN DEFAULT OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND SUCH DEFAULT CONTINUES BEYOND THE PERIOD SPECIFIED IMMEDIATELY ABOVE, THEN BUYER SHALL HAVE THE RIGHT, TO ELECT, AS ITS SOLE AND EXCLUSIVE REMEDY, TO TAKE ONE (1), BUT NOT MORE THAN ONE (1), OF THE FOLLOWING ACTIONS: (i) terminate this Agreement by written notice to Seller, promptly after which the Deposit shall be returned or released to Buyer and neither Seller nor Buyer shall have any liability hereunder except for those obligations which expressly survive the termination of this Agreement or (ii) waive the default and proceed to Closing. EXCEPT AS EXPRESSLY PROVIDED ABOVE, AND EXCEPT FOR SELLER'S POST-CLOSING OBLIGATIONS UNDER THIS AGREEMENT, BUYER HEREBY WAIVES AND RELEASES ANY RIGHT BUYER OTHERWISE POSSESSES TO RECOVER OR SEEK TO RECOVER ANY DAMAGES ARISING OUT OF THIS AGREEMENT AND/OR ESCROW, INCLUDING, WITHOUT LIMITATION, ANY CONSEQUENTIAL (INCLUDING LOST PROFITS), SPECIAL OR GENERAL DAMAGES OF ANY NATURE OR KIND (EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), OR FOR ANY PUNITIVE DAMAGES UNDER ANY CIRCUMSTANCES, AND ALL SUCH DAMAGES CLAIMS ARE HEREBY WAIVED BY BUYER TO THE FULLEST EXTENT PERMITTED BY LAW.

23. **FURTHER ASSURANCES AND CONTINGENCIES.** The Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the Parties. Such acts shall include, but not be limited to, compliance by BUYER and SELLER with California Government Code Section 65402.
24. **INTENTIONALLY OMITTED.**
25. **GENDER, NUMBER.** As used herein, the singular shall include the plural and the masculine shall include the feminine, wherever the context so requires.
26. **GOVERNING LAW; VENUE.** This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California and any litigation brought hereunder in state court shall be brought in the Superior Court of California, County of Napa, a unified court.
27. **HEADINGS.** The captions and paragraph and subparagraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the construction or interpretation of any term or provision hereof.
28. **CONSTRUCTION.** This Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **WAIVER OF BREACH.** No waiver by any Party of any breach of this Agreement shall be deemed a waiver of any other or subsequent breach.
30. **NO OTHER INDUCEMENT.** The making, execution and delivery of this Agreement by the Parties hereto has been induced by no representations, statements, warranties or agreements other than those expressed herein.
31. **SEVERABILITY.** If any term, provision, covenant or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall be severable and shall not be affected thereby, and each of the remaining terms, provisions, covenants or conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
32. **SUCCESSORS.** All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties hereto and their respective heirs, legal representatives, successors, and assigns.
33. **TIME.** Time is of the essence of each provision of this Agreement. All periods of time referred to in this Agreement shall include all Saturdays, Sundays and state or national holidays, unless the period of time specifies business days, provided that if the date or last date to perform any act or give any notice or approval shall fall on a Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.
34. **WAIVER OF PERFORMANCE.** The waiver by one Party of the performance of any term, provision, covenant or condition shall not invalidate this Agreement, nor shall it be considered as a waiver by such Party of any other term, provision, covenant or condition. Delay by any Party in pursuing any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant or condition shall not prevent such Party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.
35. **ATTORNEYS' FEES.** Should any litigation be commenced between the Parties to this Agreement concerning the sale or the rights or duties of the Parties in relation thereto, the Party prevailing in such litigation shall be entitled, in addition to such other relief as may be provided by this Agreement, to a reasonable sum as and for attorneys' fees and costs in such litigation, or in a separate action brought for that purpose. For purposes of this Agreement, the terms "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the prevailing Party, which may also include printing, photostating, duplicating, air freight charges and other expenses, as well as the fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney.
36. **NOTICES.** All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed given and effective: (i) on the date of delivery if served personally on the Party to whom notice is to be given or, unless otherwise specifically provided or required by this Agreement; (ii) if sent by overnight delivery, such as by Federal Express, on the date said notice or other writing is delivered or on which delivery is refused; (iii) if mailed, five (5) calendar days after mailing by first class, registered or certified mail, postage prepaid; or

(iv) if by electronic mail, in which case it will be deemed delivered on the date sent or the next business day after the date sent, and properly addressed as follows:

Any Party may change its address for purposes of this section by giving the other Party written notice of the new address in the manner set forth above.

BUYER: Napa Community Real Estate Fund LP  
c/o Heritage Housing Partners  
608 N. Fair Oaks Avenue, Suite 126  
Pasadena, California 91103  
ATTN: Charles E. Loveman, Jr.

SELLER: Napa County  
Department of Public Works  
1195 Third Street, Suite 101  
Napa, California 94559  
ATTN: Director of Public Works

With a copy to:

Napa County  
Office of Napa County Counsel  
1195 Third Street, Suite 301  
Attention: County Counsel

37. **CLOSING COSTS, FEES AND PRORATIONS.** BUYER shall pay all closing costs including but not limited to real property taxes, assessments, documentary transfer taxes, title insurance desired by BUYER (including the premiums for the Title Policy), escrow and recording fees, except that SELLER shall pay a real estate commission for SELLER's broker. Additionally, with respect to the costs of curing any Exception, which Seller has agreed to cure, if any, as specified in Paragraph 8 above, Seller shall pay for all costs thereof. Each Party will be responsible for and bear all of its own costs and expenses incurred in connection with the proposed purchase and sale, including without limitation, all accounting, legal and other fees and expenses.
38. **REAL ESTATE BROKERS.** The following real estate broker(s) ("Brokers") and brokerage relationships exist in this transaction and are consented to by the Parties:

Colliers Parrish International, Inc. represents SELLER ("SELLER's Broker")

The Parties acknowledge that other than the Brokers listed above, there are no other brokers representing the Parties or due any fees and/or commissions under this Agreement. BUYER and SELLER each represent and warrant to the other that they have had no dealings with any person, firm, broker or finder in connection with the negotiation of this Agreement and/or the consummation of the purchase and sale contemplated herein other than the Brokers identified above in this Paragraph, and that no broker or other person, firm or entity, other than said Brokers is or are entitled to any commission or finder's fee in connection with this transaction as

the result of any dealings or acts of such Party. BUYER and SELLER do each hereby agree to indemnify, defend, protect and hold the other harmless from and against any costs, expenses or liability for compensation, commission or charges which may be claimed by any broker, finder or other similar party, other than said named Brokers by reason of any dealings or act of the indemnifying Party.

39. **COUNTERPARTS AND .PDF / FACSIMILE SIGNATURES.** This Agreement may be executed by the Parties in counterparts, each of which shall be deemed an original, and all of which when together shall constitute one and the same instrument. Escrow Holder, after verifying that the counterparts are identical except for the signatures, is authorized and instructed to combine the signed signature pages on one of the counterparts, which shall then constitute the Agreement. In order to expedite the transaction contemplated herein, facsimile and/or .pdf signatures may be used in place of original signatures on this Agreement. SELLER and BUYER intend to be bound by the signatures on the electronically transmitted document, are aware that the other Party will rely on such signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.
40. **RELATIONSHIP OF BUYER AND SELLER.** Notwithstanding anything to the contrary contained herein, this Agreement shall not be deemed or construed to make the Parties hereto partners or joint venturers, or to render either Party liable for any of the debts or obligations of the other, it being the intention of the Parties to merely create the relationship of SELLER and BUYER with respect to the Property to be conveyed hereby.
41. **AUTHORITY TO SIGN.** Each Party and the signatories for that Party represent and warrant that the Party's signatories to this Agreement are authorized to enter into this Agreement on behalf of that Party and that no other authorizations are required to implement this Agreement on behalf of that Party. The Parties agree that written evidence of such authorization shall be submitted by each Party to the other Party prior to the Close of Escrow. Such evidence may be in the form of a certified copy of the minutes of the governing board of the Party approving such Agreement and authorizing signature thereof.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective as of the last date of execution below.

**"BUYER"**

Date: \_\_\_\_\_, 2023

NAPA COMMUNITY REAL ESTATE FUND, LP,  
a California limited partnership

By: Napa HHS GenPar LLC,  
a Delaware limited liability company,  
Its: General Partner

By: \_\_\_\_\_  
Name: Charles E. Loveman, Jr.  
Its: Authorized Signer

**"SELLER"**

Date: \_\_\_\_\_, 2023

NAPA COUNTY, a political subdivision of  
the State of California

By: \_\_\_\_\_  
BELIA RAMOS, Chair of the  
Board of Supervisors

APPROVED AS TO FORM Office of County Counsel  By: <u>Chris R.Y. Apallas</u> Deputy County Counsel  Date: <u>March 2, 2023</u>  <u>Doc. No. 87639</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**  
**Legal Description**

**EXHIBIT 'A'**

**LEGAL DESCRIPTION  
TRANSFER PARCEL A**

*THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NAPA, COUNTY OF NAPA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:*

*BEING A PORTION OF THAT PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY BY DEED FILED FEBRUARY 8, 1869 AND RECORDED IN BOOK L OF DEEDS AT PAGE 304 IN OFFICE OF THE RECORDER OF NAPA COUNTY AND AS DELINEATED IN BOOK 49 OF SURVEYS, PAGE 19 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE SOUTHWESTERLY CORNER OF THE ABOVE MENTIONED PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY, SAID POINT BEING ON THE CENTER LINE OF OLD SONOMA ROAD AND ALSO BEING ON THE EASTERLY LINE OF WALNUT STREET, AND PROCEEDING THENCE NORTH 00° 01' 30" EAST ALONG THE EASTERLY LINE OF SAID WALNUT STREET ALSO BEING THE WESTERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO THE COUNTY OF NAPA BY GRANT DEED RECORDED JANUARY 15, 2003 IN DOCUMENT NUMBER 2003-0002109, 30.00 FEET TO THE NORTHEASTERLY CORNER OF OLD SONOMA ROAD AND WALNUT STREET SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID DOCUMENT 2003-0002109; THENCE CONTINUING ALONG THE EASTERLY LINE OF WALNUT STREET AND THE WESTERLY LINE OF SAID DOCUMENT 2003-0002109 NORTH 00° 01' 30" EAST, 367.80 FEET TO THE NORTHWEST CORNER OF SAID DOCUMENT 2003-0002109 AND THE **POINT OF BEGINNING**; THENCE LEAVING SAID EASTERLY LINE OF WALNUT STREET AND PROCEEDING ALONG THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 SOUTH 89°54'28" EAST, 130.49 FEET; THENCE SOUTH 00° 01' 30" WEST, 22.31 FEET; THENCE LEAVING THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 AND PROCEEDING NORTH 89°54'28" WEST, 130.49 FEET TO THE EASTERLY LINE OF WALNUT STREET; THENCE ALONG THE EASTERLY LINE OF WALNUT STREET NORTH 00° 01' 30" EAST, 22.31 FEET TO THE **POINT OF BEGINNING**.*

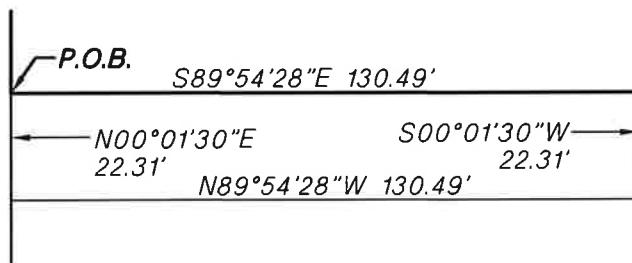
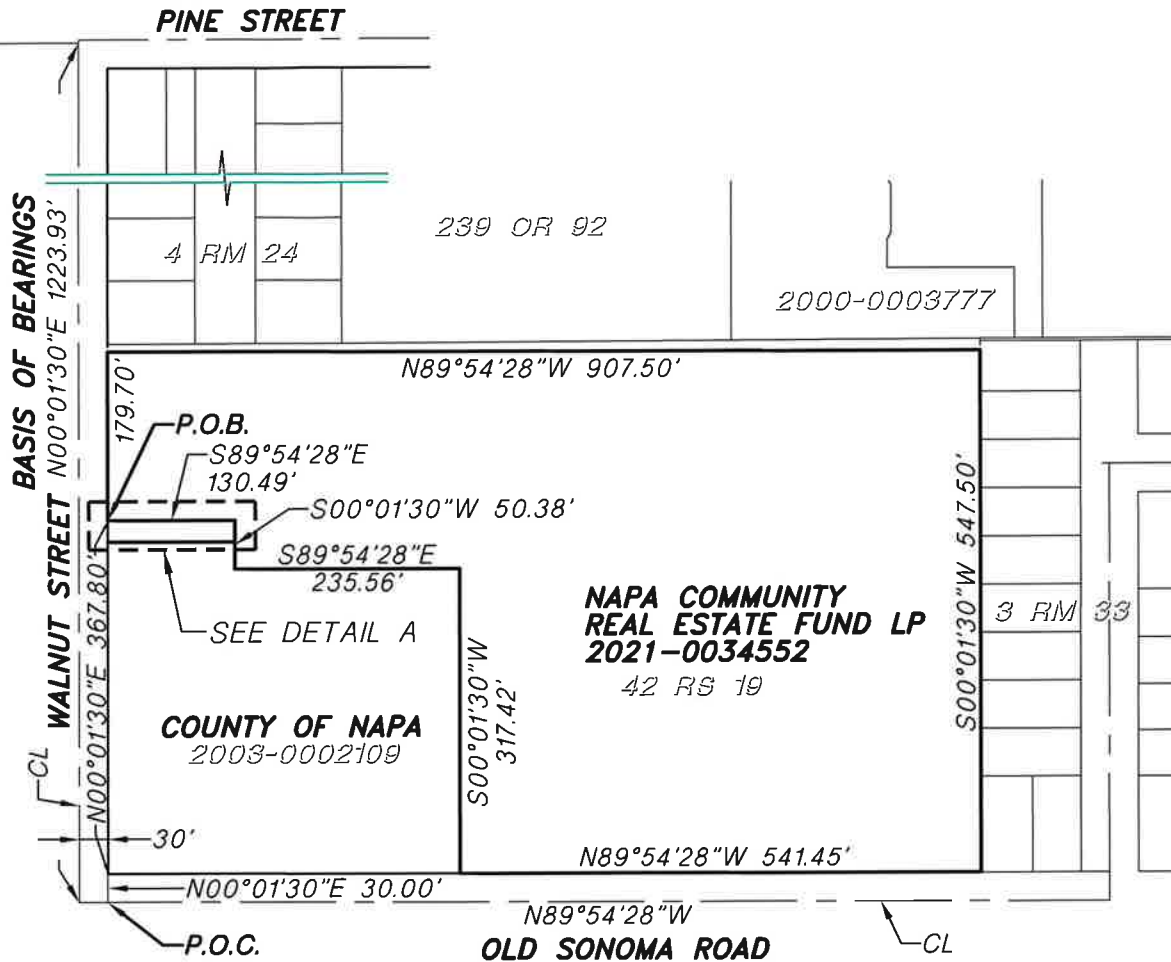
*SAID PARCEL CONTAINS 2,911 SQUARE FEET, MORE OR LESS.*

*BEARINGS AND DISTANCES SHOWN ARE BASED ON RECORD DATA FROM BOOK 42 OF SURVEYS, PAGE 19.*

ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS  
MADE PART HEREOF FOR INFORMATIONAL PURPOSES ONLY.



*Mark E. Woods* 02-13-2023  
MARK E. WOODS DATED  
R.C.E. 29851



**DETAIL A**  
1"=40'



**LEGEND:**

CL CENTERLINE  
P.O.B. POINT OF BEGINNING  
P.O.C. POINT OF COMMENCEMENT

**BASIS OF BEARINGS:**

RECORD OF SURVEY 42 RS 19

*Mark E. Woods* 02-13-2023  
MARK E. WOODS DATED  
R.C.E. 29851

DATE: 02-13-2023

SCALE: 1"=200'

SHEET

**1**

OF 1 SHEETS

PROJ. NO. 21016-10

**EXHIBIT 'B'**  
**PLAT TO ACCOMPANY**  
**LEGAL DESCRIPTION**  
**TRANSFER PARCEL A**

**CITY OF NAPA, CALIFORNIA**

**P/A Design Resources, Inc.**  
Planning ■ Engineering ■ Surveying  
3021 Citrus Circle, Suite 150  
Walnut Creek, California 94598-2635 TEL (925) 210-9300

**Exhibit B  
Grant Deed**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

MAIL TAX STATEMENTS TO:

(Space Above This Line For Recorder's Use Only)

DOCUMENTARY TRANSFER TAX IS \$ \_\_\_\_\_, COMPUTED ON THE FULL VALUE OF  
PROPERTY CONVEYED. THE PROPERTY IS LOCATED IN NAPA, CALIFORNIA. APN(S): 004-  
291-016

**GRANT DEED**

For valuable consideration, NAPA COUNTY, a political subdivision of the State of California hereby grants to \_\_\_\_\_, all that certain real property located in the City of Napa, County of Napa, State of California, more particularly described on Exhibit A attached hereto and incorporated herein by reference, together with all rights and privileges appurtenant thereto, subject to all matters of record and all matters that would be shown by an accurate survey of the Property.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023.

**GRANTOR:**

NAPA COUNTY, a political subdivision of the State  
of California

By: \_\_\_\_\_  
BELIA RAMOS, Chair of the Board of  
Supervisors

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, the undersigned, a notary public for the state, personally appeared \_\_\_\_\_, proved to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as a witness thereto, on the oath of \_\_\_\_\_, a credible witness who is known to me and provided a satisfactory identifying document. \_\_\_\_\_, being by me duly sworn, deposed and said that he/she/they was present and saw/heard \_\_\_\_\_, the same person(s) described in and whose name(s) is/are subscribed to the within, or attached, instrument in his/her/their authorized capacity(ies) as a party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her/their name(s) to the within instrument as a witness at the request of \_\_\_\_\_.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

Exhibit A to Grant Deed

Legal Description

That certain land situated in the City of Napa, County of Napa, State of California, and described as follows:

**EXHIBIT 'A'**

**LEGAL DESCRIPTION  
TRANSFER PARCEL A**

*THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NAPA, COUNTY OF NAPA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:*

*BEING A PORTION OF THAT PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY BY DEED FILED FEBRUARY 8, 1869 AND RECORDED IN BOOK L OF DEEDS AT PAGE 304 IN OFFICE OF THE RECORDER OF NAPA COUNTY AND AS DELINEATED IN BOOK 49 OF SURVEYS, PAGE 19 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE SOUTHWESTERLY CORNER OF THE ABOVE MENTIONED PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY, SAID POINT BEING ON THE CENTER LINE OF OLD SONOMA ROAD AND ALSO BEING ON THE EASTERLY LINE OF WALNUT STREET, AND PROCEEDING THENCE NORTH 00° 01' 30" EAST ALONG THE EASTERLY LINE OF SAID WALNUT STREET ALSO BEING THE WESTERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO THE COUNTY OF NAPA BY GRANT DEED RECORDED JANUARY 15, 2003 IN DOCUMENT NUMBER 2003-0002109, 30.00 FEET TO THE NORTHEASTERLY CORNER OF OLD SONOMA ROAD AND WALNUT STREET SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID DOCUMENT 2003-0002109; THENCE CONTINUING ALONG THE EASTERLY LINE OF WALNUT STREET AND THE WESTERLY LINE OF SAID DOCUMENT 2003-0002109 NORTH 00° 01' 30" EAST, 367.80 FEET TO THE NORTHWEST CORNER OF SAID DOCUMENT 2003-0002109 AND THE **POINT OF BEGINNING**; THENCE LEAVING SAID EASTERLY LINE OF WALNUT STREET AND PROCEEDING ALONG THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 SOUTH 89°54'28" EAST, 130.49 FEET; THENCE SOUTH 00° 01' 30" WEST, 22.31 FEET; THENCE LEAVING THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 AND PROCEEDING NORTH 89°54'28" WEST, 130.49 FEET TO THE EASTERLY LINE OF WALNUT STREET; THENCE ALONG THE EASTERLY LINE OF WALNUT STREET NORTH 00° 01' 30" EAST, 22.31 FEET TO THE **POINT OF BEGINNING**.*

*SAID PARCEL CONTAINS 2,911 SQUARE FEET, MORE OR LESS.*

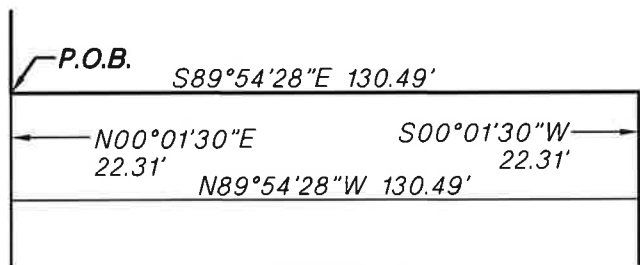
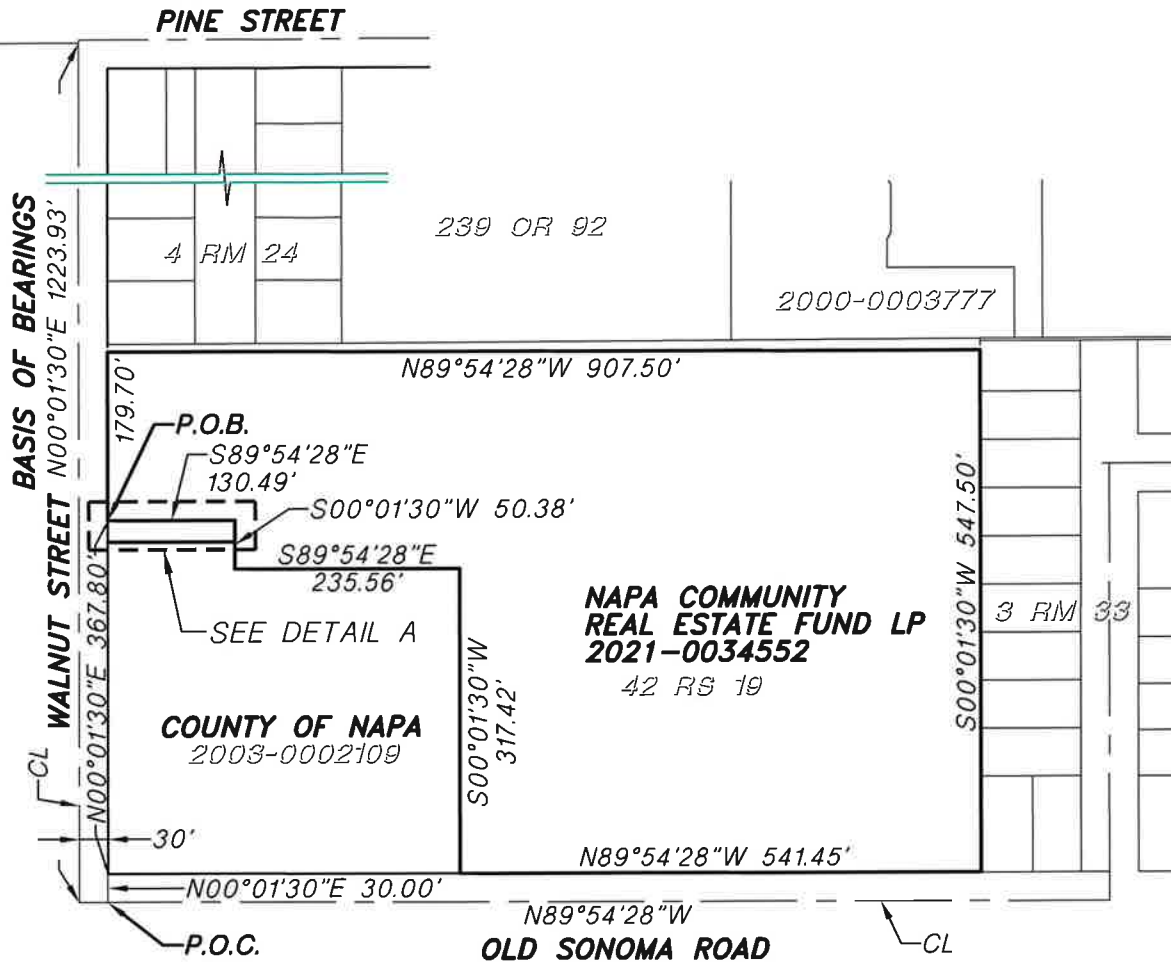
*BEARINGS AND DISTANCES SHOWN ARE BASED ON RECORD DATA FROM BOOK 42 OF SURVEYS, PAGE 19.*



ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS  
MADE PART HEREOF FOR INFORMATIONAL PURPOSES ONLY.



*Mark E. Woods* 02-13-2023  
MARK E. WOODS DATED  
R.C.E. 29851



**DETAIL A**  
1"=40'



**LEGEND:**

CL CENTERLINE  
P.O.B. POINT OF BEGINNING  
P.O.C. POINT OF COMMENCEMENT

**BASIS OF BEARINGS:**

RECORD OF SURVEY 42 RS 19

*Mark E. Woods* 02-13-2023  
MARK E. WOODS DATED  
R.C.E. 29851

DATE: 02-13-2023

SCALE: 1"=200'

SHEET

**1**

OF 1 SHEETS

PROJ. NO. 21016-10

**EXHIBIT 'B'**  
**PLAT TO ACCOMPANY**  
**LEGAL DESCRIPTION**  
**TRANSFER PARCEL A**

**CITY OF NAPA, CALIFORNIA**

B-6

**P/A Design Resources, Inc.**  
Planning ■ Engineering ■ Surveying  
3021 Citrus Circle, Suite 150  
Walnut Creek, California 94598-2635 TEL (925) 210-9300

**Exhibit C**  
**Escrow Holder's General Provisions**

1. All funds received in this escrow shall be deposited in a separate escrow fund account or accounts of Placer Title Company (for the benefit of the Parties hereto) with one or more state or national banks duly qualified to do business in the State of California, so that each such account shall be fully insured at all times by the Federal Deposit Insurance Corporation, to the maximum extent permitted by law. All disbursements shall be made by check of Placer Title Company.
2. Escrow Holder is authorized to prepare, obtain, record and deliver the necessary instruments to carry out the terms and conditions of this escrow and to order to be issued at Close of Escrow the policy of title insurance as called for in these instructions. "Close of escrow" shall mean the date instruments are recorded, unless otherwise specified by the Parties.
3. All adjustments and prorations shall be made on the basis of a 365-day year and the actual number of days in the month in which the Close of Escrow occurs.
4. If applicable, Escrow Holder is instructed to assign any fire and casualty insurance policy delivered to you and to secure any endorsements required in the performance of these instructions. Escrow Holder may assume that said policy is in full force and effect and that all premiums due have been paid.
5. Escrow Holder shall have no responsibility of notifying any of the Parties to this escrow of any sale, resale, loan, exchange or other transaction involving any property herein described or of any profit realized by any person, firm or corporation in connection therewith, regardless of the fact that such transaction(s) may be handled by you in this escrow or in another escrow.
6. No notice, demand or change of instruction shall be of any effect in this escrow unless given in writing by all parties affected thereby and except as otherwise specifically provided in the Agreement to which these General Provisions are attached.
7. If the conditions of this escrow have not been complied with at the time herein provided, Escrow Holder is nevertheless to complete the same as soon as the conditions (except as to time) have been complied with, unless any Party hereto has made written demand upon you for the return of money and instruments deposited by it.
8. Unless the Agreement otherwise provides or unless otherwise instructed by either Buyer or Seller, Escrow Holder is authorized to furnish copies of these instructions, any supplements or amendments thereto, notices of cancellation and closing statements to the attorneys, real estate broker(s) and lender(s), if any, named in this escrow.
9. Any funds abandoned or remaining unclaimed, after good faith efforts have been made by the Escrow Holder to return same to the Party(ies) entitled thereto, shall be assessed a holding fee of \$50.00 annually.
10. All documents, closing statements, and balances due the Parties to this escrow are to be wire transferred to said Parties pursuant to separate wire transfer instructions to be delivered to escrow, or if

no such separate wire transfer instructions are given to escrow, by Priority U.S. Mail or FEDEX at the addresses set forth in the Agreement of the parties for notices, unless otherwise instructed.

11. Notwithstanding the foregoing, if Escrow Holder is also acting as Title Insurer under the Agreement, nothing set forth in these General Provisions shall limit any liability set forth in the Title Policy(ies) provided in the Agreement.

12. For purposes of complying with Internal Revenue Code Section 6045(e), as amended effective January 1, 1991, escrow holder is hereby designated as the “person responsible for closing the transaction” and also as the “reporting person,” for purposes of filing any information returns with the Internal Revenue Service concerning this transaction, as required by law.

13. Escrow Holder shall assist the Parties in obtaining a waiver of withholding from the Franchise Tax Board with respect to the transactions contemplated by the Agreement in accordance with Section 18662 of the Revenue and Taxation Code of California.

14. Escrow Holder shall assist the Parties in complying with the provisions of Internal Revenue Code Section 1445 (FIRPTA withholding).

**Exhibit D**

**AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANT**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:

Napa County  
County Administration Building  
1195 Third Street, Suite 310  
Napa, CA 94559  
Attention: Director of Housing and Homeless Services

No fee for recording pursuant to  
Government Code Section 27383

*(Space above for Recorder's Use)*

**AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS**  
(Restrictive Covenant Required by the Surplus Lands Act, Government Code Section 54233)

This Amended and Restated Declaration of Restrictive Covenants (this “Covenant”) is made and entered into this \_\_\_\_\_, 2023, by and between Napa County, a political subdivision of the State of California (the “County”), and Napa Community Real Estate Fund LP, a Delaware limited partnership (“Owner”), with reference to that certain Declaration of Restrictive Covenants dated as of November 8, 2021 recorded in the Real Property Records of the County of Napa as Instrument No.2021-0034551 (the “Original Covenant”) on November 8, 2021. The Original Covenant was recorded by the County to comply with the provisions of California Government Code Sections 54233 and in furtherance of such compliance, the County and Owner will record this Covenant in the Official Records of the County on or about the \_\_\_\_\_.

- (a) The Property. Owner acquired the property described in Exhibit A to the Original Covenant from the County on November 8, 2021 (the “Original Property”). Concurrently herewith, Owner will acquire an additional parcel of property from the County consisting of 2,911 square feet of unimproved property at the southwest corner of the Original Property as more particularly described by the legal description which is attached hereto and incorporated herein by this reference as **Exhibit A** (the “Additional Property”).
- (b) Affordable Housing Covenant. The following is referred to herein as the “Affordable Housing Covenant”: If ten (10) or more residential units are developed on the Original Property, not less than 15 percent of the total number of residential units developed on the property shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the California Health and Safety Code, or affordable rent, as defined in Section 50053 of the California Health and Safety Code, to lower income households, as defined in Section 50079.5 of the California Health and Safety Code. Rental units shall remain affordable to and occupied by lower income households for a period of 55 years for rental housing and 45 years for ownership housing. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision

(c) of 65915 of the California Government Code. These requirements shall be covenants or restrictions running with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor-in-interest who continues the violation by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5 of the California Government Code.

- (c) Additional Housing Covenant. In addition to the units required under the Affordable Housing Covenant described above, the Owner has agreed that of the units which will be located in part on the Additional Property, at least one additional unit shall be sold at affordable housing cost, as defined in Section 50052.5 of the California Health and Safety Code, to lower income households, as defined in Section 50079.5 of the California Health and Safety Code and at least six additional units will be sold at moderate income cost, as defined in Section 50052.5 (b)(4) of the California Health and Safety Code, to moderate income households, as defined in Section 50093 of the California Health and Safety Code. Such low- and moderate-income ownership units shall remain affordable to and occupied by lower or moderate-income households, as applicable, for a period of 45 years. The requirements of this clause shall be referred to as the “**Additional Housing Covenant**” and shall be covenants or restrictions running with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor-in-interest who continues the violation by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5 of the California Government Code.
- (d) Responsible Portion of Property. The housing units which will satisfy the affordable housing requirements of the Affordable Housing Covenant and the Additional Housing Covenant will be located exclusively on a to-be-created legal parcel approved by the City of Napa, as generally described as Parcel B on the Site Plan which is attached hereto and incorporated herein by this reference as **Exhibit B** together with the Additional Parcel which are collectively referred to as the “Affordable Housing Parcel”. It is acknowledged that any housing units and associated common area constructed on parcels to be created on the remaining portion of the Original Property (excluding the Affordable Housing Parcel) will solely be counted toward determining the number of affordable housing units to be constructed on the Affordable Housing Parcel, and it is expressly acknowledged that no affordable housing units will be required to be located on any portion of the Original Property other than the Affordable Housing Parcel.
- (e) Amendment of Covenant. This Covenant may be amended only upon the written consent of the County and the owner of the Property, or any portion of the Property, among other things to refer to the legal parcel approved by the City of Napa which shall comprise the Affordable Housing Parcel once it has been so created; provided, however, that once the Affordable Housing Parcel has been created only the consent of the owner thereof and County will be required in connection with an amendment of this Covenant..
- (f) Amendment & Restatement of Original Covenant. This Covenant replaces, amends and restates the Original Covenant in its entirety as of the date hereof.

**IN WITNESS WHEREOF**, the County and Owner have caused this Covenant to be executed as of the date first set forth above.

**COUNTY:**

NAPA COUNTY, a political subdivision of the  
State of California

By: \_\_\_\_\_

Its: \_\_\_\_\_

APPROVED AS TO FORM  
Office of County Counsel

By:  
Deputy County Counsel

Date:

**OWNER:**

NAPA COMMUNITY REAL  
ESTATE FUND, LP,  
a California limited partnership

By: Napa HHS GenPar LLC,  
a Delaware limited liability company,

Its: General Partner

By:  
Charles E. Loveman, Jr.  
Authorized Signer



**EXHIBIT A****LEGAL DESCRIPTION OF THE PROPERTY****"Original Property"**

"That parcel of land conveyed to the Board of Directors of the Napa County Infirmary by deed filed February 8, 1869 and recorded in Book "L" of Deeds at Page 304 in Office of the Recorder of Napa County, California,

EXCEPTING therefrom the following:

COMMENCING at the southwesterly corner of the above mentioned parcel of land conveyed to the Board of Directors of the Napa County Infirmary; thence along the west line of said parcel North 30.00 feet to a point on the northerly line of the road known as "Old Sonoma Road", said point being THE TRUE POINT OF BEGINNING of this description; thence continuing along said west line of the parcel of land conveyed to the Board of Directors of the Napa County Infirmary North 367.80 feet; thence leaving said west line of the parcel of land conveyed to the Board of Directors of the Napa County Infirmary East 130.49 feet; thence South 50.38 feet; thence East 235.56 feet; thence South 317.42 feet to the northerly line of the road known as "Old Sonoma Road" ("...the road leading by P. Guessford's lands..." per "L" Deeds 304, N.C.R.), thence along said northerly line West 366.05 feet to  
THE TRUE POINT OF BEGINNING."

APN: 004-291-015

**EXHIBIT 'A'**

**LEGAL DESCRIPTION**

**TRANSFER PARCEL A ("Additional Property")**

*THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NAPA, COUNTY OF NAPA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:*

*BEING A PORTION OF THAT PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY BY DEED FILED FEBRUARY 8, 1869 AND RECORDED IN BOOK L OF DEEDS AT PAGE 304 IN OFFICE OF THE RECORDER OF NAPA COUNTY AND AS DELINEATED IN BOOK 49 OF SURVEYS, PAGE 19 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE SOUTHWESTERLY CORNER OF THE ABOVE MENTIONED PARCEL OF LAND CONVEYED TO THE BOARD OF DIRECTORS OF THE NAPA COUNTY INFIRMARY, SAID POINT BEING ON THE CENTER LINE OF OLD SONOMA ROAD AND ALSO BEING ON THE EASTERLY LINE OF WALNUT STREET, AND PROCEEDING THENCE NORTH 00° 01' 30" EAST ALONG THE EASTERLY LINE OF SAID WALNUT STREET ALSO BEING THE WESTERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO THE COUNTY OF NAPA BY GRANT DEED RECORDED JANUARY 15, 2003 IN DOCUMENT NUMBER 2003-0002109, 30.00 FEET TO THE NORTHEASTERLY CORNER OF OLD SONOMA ROAD AND WALNUT STREET SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID DOCUMENT 2003-0002109; THENCE CONTINUING ALONG THE EASTERLY LINE OF WALNUT STREET AND THE WESTERLY LINE OF SAID DOCUMENT 2003-0002109 NORTH 00° 01' 30" EAST, 367.80 FEET TO THE NORTHWEST CORNER OF SAID DOCUMENT 2003-0002109 AND THE **POINT OF BEGINNING**; THENCE LEAVING SAID EASTERLY LINE OF WALNUT STREET AND PROCEEDING ALONG THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 SOUTH 89°54'28" EAST, 130.49 FEET; THENCE SOUTH 00° 01' 30" WEST, 22.31 FEET; THENCE LEAVING THE NORTHERLY LINE OF SAID DOCUMENT 2003-0002109 AND PROCEEDING NORTH 89°54'28" WEST, 130.49 FEET TO THE EASTERLY LINE OF WALNUT STREET; THENCE ALONG THE EASTERLY LINE OF WALNUT STREET NORTH 00° 01' 30" EAST, 22.31 FEET TO THE **POINT OF BEGINNING**.*

*SAID PARCEL CONTAINS 2,911 SQUARE FEET, MORE OR LESS.*

*BEARINGS AND DISTANCES SHOWN ARE BASED ON RECORD DATA FROM BOOK 42 OF SURVEYS, PAGE 19.*

ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS  
MADE PART HEREOF FOR INFORMATIONAL PURPOSES ONLY.



*Mark E. Woods* 02-13-2023  
MARK E. WOODS DATED  
R.C.E. 29851

PINE STREET

BASIS OF BEARINGS

WALNUT STREET

N00°01'30"E 1223.93'

N00°01'30"E 367.80'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

N00°01'30"E 30.00'

4 RM 24

239 OR 92

2000-0003777

N89°54'28"W 907.50'

P.O.B.

S89°54'28"E 130.49'

S00°01'30"W 50.38'

S89°54'28"E 235.56'

SEE DETAIL A

COUNTY OF NAPA  
2003-0002109

NAPA COMMUNITY  
REAL ESTATE FUND LP  
2021-0034552  
42 RS 19

3 RM 33

S00°01'30"W 547.50'

S00°01'30"W 317.42'

N89°54'28"W 541.45'

P.O.C.

OLD SONOMA ROAD

CL

P.O.B.

S89°54'28"E 130.49'

N00°01'30"E 22.31'

S00°01'30"W 22.31'

N89°54'28"W 130.49'

**DETAIL A**

1"=40'

**LEGEND:**

CL CENTERLINE  
P.O.B. POINT OF BEGINNING  
P.O.C. POINT OF COMMENCEMENT

**BASIS OF BEARINGS:**

RECORD OF SURVEY 42 RS 19



*Mark E. Woods* 02-13-2023  
MARK E. WOODS DATED  
R.C.E. 29851

DATE: 02-13-2023

SCALE: 1"=200'

SHEET

**1**

OF 1 SHEETS

PROJ. NO. 21016-10

**EXHIBIT 'B'**  
**PLAT TO ACCOMPANY**  
**LEGAL DESCRIPTION**  
**TRANSFER PARCEL A**

CITY OF NAPA, CALIFORNIA

D-8

**P/A Design Resources, Inc.**  
Planning ■ Engineering ■ Surveying  
3021 Citrus Circle, Suite 150  
Walnut Creek, California 94598-2635 TEL (925) 210-9300

**EXHIBIT B**

**SITE PLAN OF THE PROPERTY**





A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, the undersigned, a notary public for the state, personally appeared \_\_\_\_\_, proved to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as a witness thereto, on the oath of \_\_\_\_\_, a credible witness who is known to me and provided a satisfactory identifying document. \_\_\_\_\_, being by me duly sworn, deposed and said that he/she/they was present and saw/heard \_\_\_\_\_, the same person(s) described in and whose name(s) is/are subscribed to the within, or attached, instrument in his/her/their authorized capacity(ies) as a party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her/their name(s) to the within instrument as a witness at the request of \_\_\_\_\_.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, the undersigned, a notary public for the state, personally appeared \_\_\_\_\_, proved to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as a witness thereto, on the oath of \_\_\_\_\_, a credible witness who is known to me and provided a satisfactory identifying document. \_\_\_\_\_, being by me duly sworn, deposed and said that he/she/they was present and saw/heard \_\_\_\_\_, the same person(s) described in and whose name(s) is/are subscribed to the within, or attached, instrument in his/her/their authorized capacity(ies) as a party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her/their name(s) to the within instrument as a witness at the request of \_\_\_\_\_.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

Notary Public



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, the undersigned, a notary public for the state, personally appeared \_\_\_\_\_, proved to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as a witness thereto, on the oath of \_\_\_\_\_, a credible witness who is known to me and provided a satisfactory identifying document. \_\_\_\_\_, being by me duly sworn, deposed and said that he/she/they was present and saw/heard \_\_\_\_\_, the same person(s) described in and whose name(s) is/are subscribed to the within, or attached, instrument in his/her/their authorized capacity(ies) as a party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her/their name(s) to the within instrument as a witness at the request of \_\_\_\_\_.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, the undersigned, a notary public for the state, personally appeared \_\_\_\_\_, proved to me to be the person(s) whose name(s) is/are subscribed to the within instrument, as a witness thereto, on the oath of \_\_\_\_\_, a credible witness who is known to me and provided a satisfactory identifying document. \_\_\_\_\_, being by me duly sworn, deposed and said that he/she/they was present and saw/heard \_\_\_\_\_, the same person(s) described in and whose name(s) is/are subscribed to the within, or attached, instrument in his/her/their authorized capacity(ies) as a party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her/their name(s) to the within instrument as a witness at the request of \_\_\_\_\_.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
Notary Public

**RESOLUTION NO.**

**RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS:  
(1) APPROVING GOVERNMENT CODE SECTION 52201 SUMMARY REPORT;  
(2) APPROVING THE PURCHASE AND SALE AGREEMENT AND ESCROW  
INSTRUCTIONS WITH NAPA COMMUNITY REAL ESTATE FUND, LP, FOR  
TRANSFER OF SPECIFIED COUNTY OWNED PROPERTY FOR THE  
DEVELOPMENT OF AFFORDABLE HOUSING; AND (3) MAKING SPECIFIED  
FINDINGS IN ASSOCIATION WITH THE CALIFORNIA ENVIRONMENTAL  
QUALITY ACT UNDER 14 CCR §15312, 14 CCR 15061(B)(3) AND 14 CCR 15268.**

**WHEREAS**, Napa County (the “County”) owns a 2,911 square foot parcel of real property located at the northwest corner of 212 Walnut Street, Napa, California (the “Property”); and

**WHEREAS**, under Government Code Section 52200.2 “economic opportunity is defined to include the creation of affordable housing, if a demonstrated affordable housing need exists in the community, as defined in the approved housing element or regional housing needs assessment; and

**WHEREAS**, under Government Code Section 52201 a County may sell or lease property to create economic opportunity. The County must first secure approval of the proposed sale from the County Board of Supervisors after a public hearing. A copy of the proposed agreement and a summary report that describes and contains specific financing elements of the proposed transaction is required to be available for public inspection prior to the public hearing; and

**WHEREAS**, if approved, the County and Napa Community Real Estate Fund, LP (the “Developer”) will enter into a Purchase and Sale Agreement and Escrow Instructions (“PSA”), in substantially the form attached hereto, to allow for the County to convey the Property to the Developer for the construction of seven (7) affordable for-sale housing units on the Property (the “Improvements”); and

**WHEREAS**, the County previously transferred approximately 8.6 acres located at 2344 Old Sonoma Road, Napa, APN 004-291-015-000, on which the Developer is planning to construct 155 residential for-sale housing units, including 24 affordable housing units (the “Adjacent Housing Development”); and

**WHEREAS**, as further outlined in the Staff Report accompanying this Resolution and incorporated into this Resolution by this reference (the “Staff Report”), the transfer contemplated under the PSA will further the public purpose of economic development creating jobs, and securing a site for future development of affordable housing, which is for the common benefit of residents of Napa County; and

**WHEREAS**, the County-adopted 2023-2031 Housing Element includes a housing needs assessment to adequately plan for the existing and projected future housing needs of residents. To meet projected housing needs to address the Regional Housing Needs Allocation (RHNA),

the County's Housing Element identifies that 16 units of low income housing and 14 units of moderate income housing are needed; and

**WHEREAS**, the County has placed on file a copy of the summary report called for under Government Code Section 52201 (the "Section 52201 Summary Report"), and has made the Section 52201 Summary Report available for public inspection and copying in compliance with Government Code Section 52201; and

**WHEREAS**, as further outlined in the Staff Report, the County has determined that the sale of the Property pursuant to the PSA will create economic opportunity and: (1) result in the development of seven (7) units of for-sale affordable housing on the Property; (2) the construction of the Improvements and the Adjacent Housing Development will result in job creation as a result of the anticipated construction, including approximately 55 full-time equivalent (FTE) temporary construction jobs, and an estimated 2.3 FTE permanent jobs with no financial investment from the County; and (3) result in the public purpose of economic development by creating jobs and housing; and

**WHEREAS**, as further outlined in the Staff Report and the Section 52201 Summary Report, the County is providing no direct or indirect financial assistance to the Developer and is transferring the property for \$58,220, the fair market value of the property to be conveyed at its highest and best use; and

**WHEREAS**, the County Board of Supervisors conducted a duly noticed public hearing on the PSA and the 52201 Summary Report pursuant to Government Code Section 52201, for the purpose of receiving the input and comments of the public on the PSA and the 52201 Summary Report; and

**WHEREAS**, pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA") and its implementing guidelines, for the approval of the PSA, the County has determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act under 14 CCR §15312, and because it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable under 14 CCR 15061(b)(3) and adoption of the Resolution is a ministerial action which is exempt from CEQA (14 CCR 15268; Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal.4th 165). This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5, the construction of the Improvements shall be subject to future environmental analysis and approval by the City of Napa; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of Napa County as follows:

1. The foregoing recitals are true and correct and incorporated herein and have served, together with the Section 52201 Summary Report and the Staff Report, as the basis for the findings and approvals set forth below.

2. Pursuant to Government Code Section 52200.2 and Government Code Section 52201(b), the Board hereby finds that the sale of the Property pursuant to the PSA will create economic opportunity and result in (1) the development of 7 units of for-sale affordable housing on the Property; (2) result in job creation as a result of the anticipated construction of the new development, including approximately 55 full-time equivalent (FTE) temporary construction jobs, and an estimated 2.3 FTE permanent jobs with limited investment from the County. This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.
3. Pursuant to Government Code Section 52201, the Board hereby finds that the consideration to be paid under the PSA of \$58,220 is equal to the fair market value of the property to be conveyed at its highest and best use and is not less than the fair re-use value based on estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed PSA. This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.
4. Pursuant to Government Code Section 52201, the Board hereby approves the Section 52201 Summary Report, in substantially the form on file with the Clerk of the Board of Supervisors, authorizes the Chair to execute the PSA, and authorizes execution by the Interim County Executive Officer, or a designee, of all ancillary documents in a form to be approved by the County Counsel, and to take any other actions necessary for the purpose of transferring the Property in a manner consistent with the terms and conditions identified in the accompanying PSA.
5. It shall be the sole responsibility of the Buyer of the Property to pay through escrow all amounts necessary to pay any and all real estate brokerage commissions or fees owed to any real estate brokers or agents retained by or representing the Buyer, and any and all escrow, title and recording fees and costs.
6. Board finds and determines that the disposition of the Property pursuant to the PSA is exempt from review under 14 CCR §15312, 14 CCR 15061(b)(3) and 14 CCR 15268. Moreover, CEQA review for the development of the Property will be conducted at such time as the Developer brings forward the development proposal to the City of Napa.
7. Interim County Executive Officer or designee is directed to cause a notice of exemption to be filed with the Napa County clerk, pursuant to the CEQA Guidelines following adoption of this Resolution.

**[THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]**

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED**  
 by members of the Board of Supervisors at a regular meeting of the Board of Supervisors of  
 Napa County, State of California, held on the 14<sup>st</sup> day of March, 2023, by the following vote:

AYES: SUPERVISORS \_\_\_\_\_  
 \_\_\_\_\_  
 NOES: SUPERVISORS \_\_\_\_\_  
 ABSTAIN: SUPERVISORS \_\_\_\_\_  
 ABSENT: SUPERVISORS \_\_\_\_\_

NAPA COUNTY, a political subdivision of the  
 State of California

By: \_\_\_\_\_  
 BELIA RAMOS, Chair of the  
 Board of Supervisors

APPROVED AS TO FORM Office of County Counsel  By: <i>Chris R.Y. Apallas</i> Deputy County Counsel  Date: March 2, 2023  Doc. No. 87640	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: _____
--	---	--





# Napa County

## Board Agenda Letter

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0294

**TO:** Board of Supervisors  
**FROM:** David Morrison, Interim County Executive Officer  
**REPORT BY:** Becky Craig, Assistant County Executive Officer  
**SUBJECT:** Solano-Napa Small Business Development Center Presentation

### **RECOMMENDATION**

SET MATTER 9:30 AM - Microbusiness COVID-19 Relief Grant

Solano-Napa Small Business Development Center representatives will provide an update regarding administration of the County's Microbusiness COVID-19 Relief Grant program.

### **EXECUTIVE SUMMARY**

The County received \$173,400 grant authorization in 2022 from California Office of Small Business Advocate (CalOSBA) to assist microbusinesses affected by COVID-19. The County contracted with Solano-Napa Small Business Development Center ('Center') to administer the program. The Center promoted the program and connected with eligible microbusinesses to apply for the grant. Applications were processed and the grant funds have been awarded.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No  
County Strategic Plan pillar addressed: Collaborative and Engaged Community

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: N/A

### **BACKGROUND AND DISCUSSION**

The County received \$173,400 grant authorization in 2022 from California Office of Small Business Advocate (CalOSBA) to assist microbusinesses affected by COVID-19. The County contracted with Solano-Napa Small Business Development Center ('Center') to administer the program. The Center promoted the program and connected with eligible microbusinesses to apply for the grant. Applications were processed and the grant funds have been awarded.



Center representatives will provide an update of the grant program.



SMALL  
BUSINESS  
DEVELOPMENT  
CENTER

SOLANO-NAPA

# SBDC Overview Napa County Board of Supervisors

March 14, 2023



*La Cheve Bakery & Brews*

Start. Grow. Thrive.  
Solano-Napa Small Business Development Center

# SBDC in Napa County

## Agenda

- Services & Support Provided
- Economic Impact
- Napa County Microbusiness Grant
- Napa County Support
- Opportunities Ahead



*Jeffries General Store*

Start. Grow. Thrive.

# Services

- No Cost Training and Advising
- Roundtable Groups
- Access to Capital & Grants
- Program Administration to Support SB's



*Chef Ayala, Napa Valley Bistro*

# SBDC Napa County Impact



**576 Active  
Clients**



**23 Business  
Starts**



**167 New Jobs**



**\$23,584,000  
Loans/Equity**



**\$16,044,000  
Increase in Sales**



Start. Grow. Thrive.

# Napa County Microbusiness Grant

- Grants of \$2,500 for micro businesses under \$50,000 in annual gross sales
- Conducted outreach program (social media, radio, Farmers market)
- Partnered with Napa County Hispanic Chamber & Community Resources for Children
- Awarded 55 grants totaling \$137,500



Start. Grow. Thrive.

# Napa County Support

Michael Basayne Lead Business Advisor for Napa County

- SBDC Delivering Free One on One Business Advisory and Workshops
- Assistance with application and funding of EIDL, PPP, Grants, Tax Guidance
  - Earthquake
  - Wildfire
  - COVID 19
  - Storm Damage
- CA Dream Fund
- Inclusivity Project



Start. Grow. Thrive.

# Napa County Support

- Administration of Napa County Microgrant Program
- Co-Hosting the annual Business Plan Competition at Napa Valley College
- Work closely with Napa Chamber, City of Napa, Napa County Hispanic Chamber and Workforce Alliance Northbay
- Upcoming Workforce Policy Summit on April 18<sup>th</sup>
- Administration of Napa Climate Now electric leaf blower grant for City of Napa



Start. Grow. Thrive.



# Napa County Support

- Assisting local childcare providers apply for CA infrastructure grant providing \$150K - \$1.5M
- Started Roundtable groups for women business owners with a new Spanish speaking women's Roundtable coming soon!
- Bilingual Advisors
- Engagement with Local media
- Local Success Stories profiled



Start. Grow. Thrive.

# Napa County Opportunities

- Build on our momentum to reach and support the success and sustainability of more Napa county small businesses
- Opportunity to leverage a “ready to go” Business Accelerator Program that teaches business success principles and provides grant funding to graduates (if we can secure funding)



Start. Grow. Thrive.

# Thank you!



*Studio KLY*



*GUILD Napa*



Start. Grow. Thrive.



# Napa County

## Board Agenda Letter

---

Board of Supervisors

**Agenda Date:** 3/14/2023

**File ID #:** 23-0398

---

**TO:** Board of Supervisors  
**FROM:** David Morrison, Interim County Executive Officer  
**REPORT BY:** Neha Hoskins, Clerk of the Board  
**SUBJECT:** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

---

### **RECOMMENDATION**

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Government Code section 54956.9(d)(1))

Name of case: In re: National Prescription Opiate Litigation

Case No.: U.S. District Court for the Northern District of Ohio, Case No. 1:17-md-2804