Napa County

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



Agenda - Final

*Consolidated

Tuesday, December 5, 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 Supportive 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

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.

PUBLIC HEARINGS - These items are noticed public hearings pursuant to government code.

ADMINISTRATIVE ITEMS - These items include significant policy and administrative actions and are classified by program areas.

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, subject to the discretion of the Chair. 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 https://napa.legistar.com/Calendar.aspx (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 (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. Call the Board of Supervisors Public Comment Line at 707-299-1776 during the item on which you want to speak. Comments will be limited to three minutes, subject to the discretion of the Chair. If you cannot make the meeting, you may leave a comment by voice mail by calling the Public Comment Line before or after the meeting.
- 2. Email your comment to 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.

- 1. CALL TO ORDER; ROLL CALL
- 2. PLEDGE OF ALLEGIANCE
- 3. PET OF THE WEEK
- 4. PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS
- 5. CONSENT CALENDAR SPECIAL DISTRICTS

Lake Berryessa Resort Improvement District

A. District Engineer requests adoption of a Resolution approving and submitting an argument in favor of LBRID Measure "U," establishing the appropriations limit of Lake Berryessa Resort Improvement District.

23-1938

Attachments: Resolution

6. CONSENT CALENDAR

County Counsel

A. County Counsel requests adoption of a Resolution consolidating three local special elections with the Presidential Primary Election to be held on March 5, 2024.

23-1939

Attachments: Resolution

Town of Yountville Resolution

Howell Mountain Elementary Resolution

LBRID Resolution

County Executive Office

B. County Executive Officer requests the following:

23-1551

- 1. Approval of a Budget Amendment increasing Fire-Building Rents (2100000-52605) by \$90,000 from available fund balance (4/5 vote required); and
- 2. Approval of and authorization for the Chair to sign Lease Agreement 240226B, with H4IT Napa LLC, for \$14,500 per month for the term January 15, 2024-January 31, 2029 with a five-year extension option with an annual 3% escalation rate to relocate Fire Operations and Fire Marshal offices to 951 California Boulevard, Napa.

Attachments: Agreement

Disclosure

County Fire Department

- C. Deputy County Fire Chief requests the following actions regarding purchasing communication equipment for a Chief's vehicle and utility pickup in the fire prevention fleet (4/5 vote required):
 - pickup in the fire prevention fleet (4/5 vote required):

 1. Approval of a Budget Amendment to increase transfer out of \$6,400 from Fire Operations (2100000-57900) using available fund balance to be transferred to the subdivisions of Fire Marshal (2100001-49900) and Fire Operations (2100000-49900); and an
 - transfer of revenue; and
 2. Increase of capital assets in the amount of \$6,400 for the purchase of emergency communication equipment in new B1407 truck and C1404 Tahoe.

increase to Capital Asset appropriations in (2100001-55400) offset by

<u>Attachments: Correction Memorandum (added after meeting)</u>

Health and Human Services Agency

- **D.** Director of Health and Human Services Agency (HHSA) requests:
 - 1. Adoption of a Resolution authorizing the Director of HHSA to take actions in regard to drug diversion program and standards; and
 - 2. Approval of and authorization for the Chair to sign Agreement No. 240141B with Alternatives for Better Living, Inc., for a contract maximum of \$50,000 for Fiscal Year 2023-2024, and each subsequent renewal, to provide Penal Code 1000 (PC 1000) drug diversion services.

Attachments: Resolution
Agreement

E. Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Revenue Agreement No. 240177B with Department of Health Care Services (DHCS) for a maximum of \$38,502,000 for the term Fiscal Year 2023-2024 through Fiscal Year 2026-2027 for the State and Federal funding for alcohol and drug programs approved in the Napa County Drug Medi-Cal Organized Delivery System (DMC-ODS) Waiver.

Attachments: Agreement

F. Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Agreement No. 240165B with St. Helena Hospital Foundation (SHHF) for the term December 1, 2023 through May 31, 2024 for a contract maximum of \$99,600 to conduct mobile community clinics to administer COVID-19 vaccines.

Attachments: Agreement

23-1915

23-1596

23-1601

23-1702

23-1833

Attachments: Resolution

H. Director of Health and Human Services Agency (HHSA) requests adoption of a resolution authorizing joint application for and acceptance of the County Allocation Awards under the California Department of Housing and Community Development (HCD) Transitional Housing Program (THP) Round 5 and Housing Navigation and Maintenance Program (HNMP) Round 2.

23-1834

Attachments: Resolution

I. Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Agreement No. 240215B with the California Department of Health Care Services (DHCS) for the Intergovernmental Agreement Regarding Transfer of Public Funds for the term January 1, 2022, through June 30, 2025, for the transfer of approximately \$2,000,000 to fund the non-federal share of Medi-Cal Managed Care actuarially sound capitation rates. This amount includes the 20% assessment fee retained by DHCS.

23-1837

Attachments: Agreement

Housing & Homeless Services - Division of CEO's Office

J. Director of Housing & Homeless Services requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 200400B with The Ferguson Group for grant writing assistance, extending the contract for an additional year through June 30, 2024 with up to three yearly auto-renewals.

23-1845

Attachments: Agreement

K. Director of Housing & Homeless Services requests the Board of Supervisors adopt a Resolution reserving \$1,550,000 from the Affordable Housing Fund to assist Jamboree Housing Corporation with the development of 41 permanent supportive housing units.

23-1942

Attachments: Resolution

23-1934

23-1947

23-1952

23-1978

Human Resources – Division of CEO's Office

L. Director of Human Resources requests adoption of a Resolution establishing a \$1,600 Matching Employer Contribution for Management, Confidential, and Non-Classified Officers and Non-Classified employees who are participants in Napa County's 401(a) Retirement Savings Plan during calendar year 2024, a \$600 Matching Employer Contribution for SEIU employees who are participants in Napa County's 401(a) Retirement Savings Plan during calendar year 2024, and a \$900 Matching Employer Contribution for NCPPA employees who are participants in Napa County's 401(a) Retirement Savings Plan during calendar year 2024.

Attachments: Resolution

M. Director of Human Resources and Chief Probation Officer request adoption of a Resolution amending the Table and Index of Classes, Appropriate Personnel Policies, and the Departmental Allocation List for the Probation Department, by adding 1.0 full-time equivalent (FTE) Probation Administrative Manager and deleting 1.0 FTE Staff Services Manager and 0.5 FTE Juvenile Hall Counselor I/II, effective December 9, 2023, with a decrease in FTE, and net savings to the County General Fund.

Attachments: Resolution

N. Director of Human Resources and Director of Health and Human Services Agency request adoption of a Resolution amending the Departmental Allocation List for the Behavioral Health Division of the Health and Human Services Agency, with no net increase in full-time equivalents (FTEs), and no impact to the County General Fund.

Attachments: Resolution

Information Technology Services – Division of CEO's Office

O. Chief Information Officer requests the approval of and authorization for the Chair to sign Memorandum of Understanding No. 8672 among the Counties of Marin, Mendocino, Napa, and Sonoma as part of their participation in the North Bay North Coast Broadband Consortium, with a term of January 1, 2024 through December 31, 2027 to improve broadband access to the underserved communities in the North Bay/North Coast Region.

Attachments: Agreement

Planning, Building and Environmental Services (PBES)

P. Director of Planning, Building and Environmental Services requests approval of and authorization for the Chair to sign Agreement No. 240224B with the Association of Bay Area Governments (ABAG) for a maximum of \$1,056,770 for the term January 1, 2024 through December 31, 2027 to deliver services related to the Bay Area Regional Energy Network (BayREN) Program.

Attachments: Agreement

Public Works

Q. Director of Public Works requests adoption of a Resolution in the support of the Napa Valley Transportation Authority's (NVTA) "NVTA Vision Zero Plan."

23-1877

23-1798

Attachments: Resolution

NVTA Vision Zero Plan

R. Director of Public Works requests approval of a Budget Amendment for the following (4/5 vote required):

23-1902

- 1. Creation of a new Roads Capital Improvement Project for Butts Canyon Road Resurfacing Project (Fund 2040, Sub-Division 2040500, Project 24020);
- 2. Increase Transfer Out appropriations by \$50,000 in the Accumulated Capital Outlay Fund (ACO) (Fund 3000, Sub-Division 3000000, Account 56100) offset by use of its available fund balance to be transferred to Project 24020; and
- 3. Increase Engineering Services appropriations by \$50,000 in Project 24020 (Fund 2040, Sub-Division 2040500, Project 24020, Account 52145) offset by transfer-in revenue from ACO.

Attachments: Budget Summary

S. Director of Public Works requests the following related to Measure T funding for County Roads:

23-1932

- 1. Adoption of a Resolution confirming commitment of funding for Class 1 bike paths;
- 2. Adoption of a Resolution confirming expenditures to meet the County's Maintenance of Effort (MOE) requirement; and
- 3. Adoption of a Resolution approving amendments to the Measure T five-year work plan for County Roads.

Attachments: Resolution 1

Resolution 2

<u>Memo</u>

Resolution 3

T. Director of Public Works requests approval of and authorization for the Chair to sign an Easement Deed in favor of Pacific Gas & Electric Company (PG&E) for an area of approximately 5,000 square feet on Napa County Airport property to allow for the installation of an underground electrical line.

23-1946

Attachments: Easement

- 7. PUBLIC COMMENT
- 8. BOARD OF SUPERVISORS REPORTS AND ANNOUNCEMENTS
- 9. DISCUSSION OF ITEMS PULLED FROM CONSENT CALENDARS
- 10. ADMINISTRATIVE ITEMS SPECIAL DISTRICTS
- 11. ADMINISTRATIVE ITEMS

County Executive Office

A. Deputy County Fire Chief will provide an annual report of fire preparedness and response.

23-1883

<u>Attachments: PowePoint (added after meeting)</u>

Housing & Homeless Services – Division of CEO's Office

B. Director of Housing & Homeless Services to provide a presentation on the Bay Area Housing Finance Authority (BAHFA) Older Adult Rental Assistance Pilot Program Grant award to Napa County in the amount of \$5,000,000 to prevent homelessness and improve long-term housing stability for extremely-low income senior residents experiencing severe housing burden through June 2028.

23-1900

<u>Attachments</u>: <u>PowerPoint (added after meeting)</u>

Planning, Building and Environmental Services (PBES)

C. Director of Planning, Building, and Environmental Services will provide an update on the Code Compliance program for FY 22/23.

23-1928

<u>Attachments:</u> Policy and Procedure Manual PowerPoint (added after meeting)

12. PUBLIC HEARING - SPECIAL DISTRICTS

13. PUBLIC HEARINGS

Planning, Building and Environmental Services (PBES)

A. PUBLIC HEARING 9:00 AM - Williamson Act Agricultural Preserves and Contracts 2023

23-1668

Director of Planning, Building and Environmental Services requests adoption of a Resolution establishing certain Agricultural Preserves (Types A & H), and approval of and authorization for the Chair to execute the following Williamson Act Agricultural Contracts:

- 1. Approving three new contracts with the following applicants:
- a. Hunter Holdings II LLC, at 2628 Las Amigas Road;
- b. Marly Holding LLC, at 2955 Sulphur Springs Road;
- c. Pritchard Hill Vineyards LLC, at 1553 Sage Canyon Road; and
- 2. Approving rescission of two existing contracts and replacing with two new contracts with the following applicant:
- a. Stag's Leap Wine Cellars LLC, 5766 Silverado Trail, Napa, CA (Contracts P23-00289 and P23-00290).

Attachments: Resolution

Map Memo

Contract Type A
Contract Type H

B. PUBLIC HEARING 9:00 AM - Inn at the Abbey Development Agreement

23-1873

Director of Planning, Building and Environmental Services and County Counsel requests discussion and direction regarding proposed terms of a Development Agreement between Napa County and Jackson Family Investments, LCC (Applicant), concerning their existing Use Permit Major Modification application, #P19-00038-MOD, the Inn at the Abbey.

Attachments: Attachment A

Attachment B
Attachment C
Attachment D
Attachment E

PowerPoint (added after meeting)

Board of Supervisors

14. CLOSED SESSION

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government 23-1686

Code Section 54957)

Title: Director of Corrections

B. CONFERENCE WITH LABOR NEGOTIATORS (Government Code 23-1972

Section 54957.6)

Agency Designated Representatives: Christine Briceño, Director of

Human Resources

Employee Organization: SEIU 2015 (representing Napa County In-Home

Support Services workers)

15. ADJOURNMENT

ADJOURN TO THE BOARD OF SUPERVISORS REGULAR MEETING, TUESDAY, DECEMBER 19, 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, DECEMBER 1, 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

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1938

TO: Members of the Governing Board

FROM: Chris Silke, District Engineer

REPORT BY: Thomas Zeleny, Chief Deputy County Counsel

SUBJECT: Argument in favor of LBRID Measure "U"

RECOMMENDATION

District Engineer requests adoption of a Resolution approving and submitting an argument in favor of LBRID Measure "U," establishing the appropriations limit of Lake Berryessa Resort Improvement District.

EXECUTIVE SUMMARY

California Elections Code section 9162 authorizes the Governing Board of LBRID to submit a written argument for or against a ballot measure. The Board approved submitting arguments in favor of prior measures to establish the appropriations limit for LBRID in 2016 (Measure "S") and 2020 (Measure "T"). This proposed action would approve the argument in favor of LBRID Measure "U" attached as Exhibit "A" to the resolution, and direct the Clerk of the Board to submit the argument to the Registrar of Voters on behalf of the Board for inclusion in the ballot materials.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

Is it Mandatory or Discretionary? Discretionary

Discretionary Justification: The argument helps explain to the public that the measure is

necessary for the District to spend its existing revenue.

Is the general fund affected? No

Consequences if not approved: An argument submitted by the Board has priority. Another person

may submit an argument in favor if the Board does not.

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)(2).

BACKGROUND AND DISCUSSION

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1938

California Elections Code section 9162 authorizes the Governing Board of LBRID to submit a written argument for or against a ballot measure. The Board approved submitting arguments in favor of prior measures to establish the appropriations limit for LBRID in 2016 (Measure "S") and 2020 (Measure "T"). This proposed action would approve the argument in favor of LBRID Measure "U" attached as Exhibit "A" to the resolution, and direct the Clerk of the Board to submit the argument to the Registrar of Voters on behalf of the Board for inclusion in the ballot materials. The argument in favor of LBRID Measure "U" in Exhibit "A" is substantially the same as the Board approved in 2016 and 2020.

The appropriations limit must be approved by voters in LBRID every four years. LBRID Measure "U" seeks voter approval to establish the appropriations limit for LBRID at \$510,000 for Fiscal Years 2024-2025 through 2027-2028. The appropriations limit will be adjusted after the first fiscal year to account for increases in the cost of living or population. The appropriations limit for LBRID for Fiscal Year 2023-2024 was \$507,899. If Measure "U" is not approved, the appropriations limit for LBRID will fall to \$55,870 for Fiscal Year 2024-2025, making it difficult for LBRID to continue providing water and sewer services.

RESOLUTION NO. 2023-____(LBRID)

RESOLUTION OF THE GOVERNING BOARD OF THE LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT APPROVING AN ARGUMENT IN FAVOR OF BALLOT MEASURE "U" AND SUBMITTING SAID ARGUMENT TO THE REGISTRAR OF VOTERS TO INCLUDE IN THE OFFICIAL BALLOT MATERIALS.

WHEREAS, the Lake Berryessa Resort Improvement District ("District") is a Resort Improvement District organized pursuant to sections 13000 et seq. of the Public Resources Code; and

WHEREAS, the Board of Supervisors is the Governing Board of the District ("Board") pursuant to Public Resources Code section 13031; and

WHEREAS, on November 28, 2023, the Board adopted Resolution No. 2023-_____(LBRID) calling a special election to establish the District's appropriations limit for the period commencing July 1, 2024 and ending June 30, 2028, and requesting the Board of Supervisors to authorize the Registrar of Voters to conduct the special election in consolidation with the Presidential Primary Election on March 5, 2024; and

WHEREAS, the authority and procedure for submitting ballot arguments in a district special election is governed in the same manner as county measures, pursuant to Elections Code sections 9168 and 9342; and

WHEREAS, Elections Code section 9162 authorizes the Board to file a written argument not to exceed 300 words in length for or against a measure; and

WHEREAS, the Board concludes that filing an argument in favor of Measure U is appropriate; and

WHEREAS, Elections Code section 9166 provides that if more than one argument for or against a measure is submitted to the elections official within the time prescribed, the argument submitted by the Board shall have first preference and priority for inclusion in the Official Ballot materials;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Lake Berryessa Resort Improvement District, that the "Argument in Favor of Measure U" which is attached hereto as Exhibit "A" is hereby approved and incorporated herein by reference.

BE IT FURTHER RESOLVED, that on behalf of the Board, the Clerk of the Board is directed to submit the attached "Argument In Favor of Measure U" to the Registrar of Voters to be included in the Official Ballot materials.

1

PL Doc. No. 103636

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED

by the Governing Board of the Lake Berryessa Resort Improvement District at a regular meeting held on the 5th day of December, 2023, by the following vote:

	AYES:	MEMI	BERS		
	NOES:	MEMI	BERS		
	ABSTAIN:	MEMI	BERS		
	ABSENT:	MEMI	BERS		
				LAKE BERRYESSA F DISTRICT, a special d California	RESORT IMPROVEMENT istrict of the State of
				BELIA RAMOS, Chair	of the Governing Board
	VED AS TO FOR of County Couns		SUPERVISOR BOARD OF	D BY THE BOARD OF RS, AS THE GOVERNING THE LAKE BERRYESSA	ATTEST: NEHA HOSKINS Secretary of the District
•	uty County Couns	sel		PROVEMENT DISTRICT	By:
Date: Nov PL Doc. No. 1	ember 15, 2023 03636	_	Deputy Secretar	y of the District	

PL Doc. No. 103636

EXHIBIT "A"

Lake Berryessa Resort Improvement District Argument In Favor Of Measure U

The Lake Berryessa Resort Improvement District ("District") faces significant operational, maintenance, and compliance challenges due to the age of its facilities. The funds to meet these challenges come from a voter-approved special tax, property owner-approved special assessments, and collection of water and sewer user rates.

When District voters approved the T-1 special tax in 1998, they also had to approve a higher appropriations limit to allow the District to spend the revenues raised. Under Proposition 4, such new limits remain in effect for only 4 years. In 2020, District voters re-approved the appropriations limit of \$430,000 for Fiscal Years 2020-2021 through 2023-2024, with annual adjustments for population growth or increased cost of living for Fiscal Years 2021-2022 through 2023-2024.

Measure U will authorize a new appropriations limit in the amount of \$510,000.00 for Fiscal Year 2024-2025, subject again to annual adjustments during Fiscal Years 2025-2026 through 2027-2028. The proposed limit is sufficient to allow all tax revenues raised to be spent for District needs as intended by the voters.

Measure U does not increase or impose new taxes on District residents. It only allows the District to fully use revenues already authorized by the voters of the District towards providing water and sewer service in compliance with applicable regulations. A "YES" vote on Measure U will continue to ensure District residents delivery of quality water and effective treatment and disposal of wastewater into the future; whereas a "NO" vote would severely impair the District's ability to provide necessary services and to maintain facilities. As a result, we believe it is essential to the best interests of all residents of the District that the proposed appropriations limit be approved.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1939

TO: Board of Supervisors

FROM: Sheryl L. Bratton, County Counsel

REPORT BY: Thomas Zeleny, Chief Deputy County Counsel

SUBJECT: Consolidation of Local Special Elections with the Presidential Primary Election

RECOMMENDATION

County Counsel requests adoption of a Resolution consolidating three local special elections with the Presidential Primary Election to be held on March 5, 2024.

EXECUTIVE SUMMARY

The Board of Supervisors received three requests to consolidate local special elections with the Primary Presidential Election to be held on March 5, 2024. The requests are from the Town of Yountville, the Lake Berryessa Resort Improvement District (LBRID), and the Howell Mountain Elementary School District.

The Board of Supervisors may order the local special elections to be consolidated with the statewide election pursuant to Elections Code sections 10400 and 10401. All three local agencies have expressed their intent to reimburse the County for the cost of their elections. The proposed Resolution consolidates the three special elections with the March 5, 2024 primary election and authorizes the Registrar of Voters to provide elections services to the three entities.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No Is it currently budgeted? No

Is it Mandatory or Discretionary?

Discretionary

Discretionary Justification: Consolidating the local special elections with the statewide

election is more convenient for voters and cost effective.

Is the general fund affected? No Future fiscal impact: None.

Consequences if not approved: Separate elections will need to be conducted, likely at a higher

cost.

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1939

County Strategic Plan pillar addressed: Effective and Open Government

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action 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)(2).

BACKGROUND AND DISCUSSION

The Board of Supervisors received three requests to consolidate local special elections with the Primary Presidential Election to be held on March 5, 2024. The requests are for:

- 1. Town of Yountville Measure U: establishing the appropriations limit for the Town of Yountville for Fiscal Years 2022-2023 through 2026-2027;
- 2. LBRID Measure U: establishing the appropriations limit of LBRID for Fiscal Years 2024-2025 through 2027 -2028; and
- 3. Howell Mountain Elementary School District Measure D: school bond election for school improvements.

The Board of Supervisors may order the local special elections to be consolidated with the statewide election pursuant to Elections Code section 10401. All three local agencies have expressed their intent to reimburse the County for the cost of their elections. The proposed Resolution will authorize the Registrar of Voters to consolidate the three local special elections with the Presidential Primary Election.

(The Town of Yountville and LBRID measures are coincidentally both named Measure U.)

Napa County Page 2 of 2 Printed on 11/30/2023

RESOLUTION NO. 2023-____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA CONSOLIDATING VARIOUS SPECIAL ELECTIONS WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON MARCH 5, 2024 FOR THE TOWN OF YOUNTVILLE (INCREASING APPROPRIATIONS LIMIT), THE LAKE BERYRESSA RESORT IMPROVEMENT DISTRICT (INCREASING APPROPRIATIONS LIMIT), AND THE HOWELL MOUNTAIN ELEMENTARY SCHOOL DISTIRCT (BOND MEASURE), AND DIRECTING THE REGISTRAR OF VOTERS AND THE ELECTION DIVISION OF THE ASSESSOR-RECORDER-COUNTY CLERK DEPARTMENT TO PROVIDE ELECTION SERVICES TO THE TOWN AND DISTRICTS

WHEREAS, the Town of Yountville, the Howell Mountain Elementary School District, and the Lake Berryessa Resort and Improvement District have each called special elections and have requested that the Napa County Board of Supervisors consolidate their respective special elections with the March 5, 2024, statewide primary election; and

WHEREAS, the Town of Yountville has called a special municipal election to be held on March 5, 2024, which will increase the Town's appropriations limit for Fiscal Year 2022/23 through Fiscal Year 2026/2027, and which the Registrar of Voters has designated as Measure "U"; and

WHEREAS, pursuant to Elections Code section 10403, the Town of Yountville adopted and timely filed the required resolution (Yountville Resolution No. 23-4233) with the Clerk of the Board of Supervisors, requesting that the Board of Supervisors consolidate the Town's special municipal election with the March 5, 2024 statewide primary election; and

WHEREAS, the Town of Yountville has agreed to reimburse the County in full for the costs of all elections services provided by the Registrar of Voters; and

WHEREAS, the Lake Berryessa Resort Improvement District (LBRID) has called an election to be held on March 5, 2024, placing LBRID Ordinance No. 2024-01 on the ballot with the question of whether the appropriations limit should be increased for Fiscal Year 2024/2025 through Fiscal Year 2027/2028, and which the Registrar of Voters has designated as Measure "U"; and

WHEREAS, pursuant to Elections Code section 10403, LBRID has adopted and timely filed the required resolution (LBRID Resolution No.___) with the Clerk of the Board of Supervisors, requesting that the Board of Supervisors consolidate LBRID's special election with the March 5, 2024 statewide primary election; and

- **WHEREAS**, LBRID has agreed to reimburse the County in full for the costs of all elections services provided by the Registrar of Voters; and
- **WHEREAS**, the Howell Mountain Elementary School District, has ordered a special election pursuant to California Education Code Sections 5304, 5322, 15100 *et seq.*, and 15266, and paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution, to be held within the boundaries of the District on March 5, 2024, for the purpose of submitting to the registered voters of the District a bond measure, which has been designated as Measure D by the Registrar of Voters; and
- **WHEREAS**, Education Code section 15266 provides that any such election must be held at a primary or general election, a regularly scheduled local election at which all of the electors of the school district are entitled to vote, or a statewide special election; and
- **WHEREAS**, pursuant to Elections Code section 10403 and Education Code section 5342, the Howell Mountain Elementary School District has adopted and timely filed the required resolution (Resolution No. 2023-07) with the Clerk of the Board of Supervisors, requesting that the Board of Supervisors consolidate the District's special election with the March 5, 2024 statewide primary election; and
- **WHEREAS,** the Howell Mountain Elementary School District is required and has agreed to reimburse the County in full for all costs of the bond election pursuant to Education Code section 5421 and Elections Code section 10002; and
- **WHEREAS**, the projects to be funded from the proposed bonds will not require matching funds from the State of California and therefore section 15122.5 of the Education Code is not applicable and the statement contained therein shall not be included in the sample ballot materials; and
- **WHEREAS**, Elections Code sections 10400 and 10401 provide that a city or district election may be consolidated with a statewide election if ordered by the Board of Supervisors; and
- **WHEREAS**, March 5, 2024 is a regularly scheduled statewide election date as provided in Elections Code section 1001; and
- **WHEREAS**, the Board believes that consolidating these three special elections with the statewide primary election would be cost effective and is the most appropriate manner in which to proceed.
- **NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Napa County, State of California, hereby approves the requests of the Town of Yountville, the Lake Berryessa Resort Improvement District and the Howell Mountain Elementary School District to

consolidate their respective elections with the statewide primary election to be held on March 5, 2024, and to have the Registrar of Voters conduct said elections.

BE IT FURTHER RESOLVED that the following question, which the Registrar of Voters has designated as Measure U, shall be submitted to the Town of Yountville's voters, as set forth in the Town's Resolution No. 23-4233. The Registrar is hereby instructed to place the question on the ballot at said election in substantially the following form:

To fully utilize TOT and sales tax generated from visitors for public	
services, parks & recreation, police and fire emergency programs, shall the	Yes
appropriations limit set by Article 13B of the California Constitution be	
increased by \$3,000,000 and the growth in TOT for each year commencing	
fiscal year 2022/2023 through fiscal year 2026/2027? By approving this	No
appropriation limit, no new taxes are created nor will any existing tax be	
increased.	

BE IT FURTHER RESOLVED that the following question, which the Registrar of Voters has designated as Measure U, shall be submitted to the voters of the Lake Berryessa Resort Improvement District, as set forth in the District Resolution No. _____. The Registrar is hereby instructed to place the question on the ballot at said election in substantially the following form:

Shall Lake Berryessa Resort Improvement District Ordinance No. 2024-01 (LBRID) be approved?	Yes
(The Ordinance will establish the District's appropriations limit at \$510,000.00, for Fiscal Years 2024-2025 through 2027-2028 and this limit will be adjusted annually commencing in Fiscal Year 2025-2026 to the extent authorized by Article XIIIB, Section 1 of the California Constitution for Fiscal Years 2025-2026 through 2027-2028.)	No

BE IT FURTHER RESOLVED that the following question, which the Registrar of Voters has designated as Measure D, shall be submitted to the voters of the Howell Mountain Elementary School District, as set forth in the District Resolution No. 2023-07. The Registrar is hereby instructed to place the question on the ballot at said election in substantially the following form:

To construct an early learning center to support transitional kindergarten,	
upgrade technology, renovate/replace roofs, windows, flooring, cabinetry,	Yes
HVAC systems and music building, and improve playfields and paved	
surfaces, shall the Howell Mountain Elementary School District measure	
authorizing \$9,000,000 in bonds, at legal interest rates, and levying	No
approximately \$30 per \$100,000 of assessed valuation (raising \$531,000	
annually) while bonds are outstanding, be adopted, with an appointed	

citizens' oversight committee and independent audits to assure proper expenditure of funds?"

BE IT FURTHER RESOLVED that the entire text of the Howell Mountain Elementary School District's Measure D, Town of Yountville's Measure U and LBRID's Measure U shall be printed in the voter information guide.

BE IT FURTHER RESOLVED that the tax rate statement relating to Howell Mountain Elementary School District's Measure D shall be mailed to the voters as part of the voter information guide for the bond election as required by Elections Code sections 9401 and 13303.

BE IT FURTHER RESOLVED that Registrar of Voters shall take all steps to conduct these consolidated special elections in accordance with state law.

BE IT FURTHER RESOLVED that the polls shall be open from the hours of 7:00 a.m. to 8:00 p.m. on March 5, 2024. The manner of holding the elections and the procedure for voting for and against the questions presented shall be as set forth in the Elections Code for special municipal and district elections as provided by state law, which are consolidated with a statewide primary election.

BE IT FURTHER RESOLVED that the Election Division of the Assessor-Recorder County Clerk Department is hereby authorized and directed to procure and furnish all election services requested by the Town of Yountville, the Lake Berryessa Resort Improvement District, and the Howell Mountain Elementary School District pursuant to each entity's respective resolutions.

BE IT FURTHER RESOLVED that the impartial analysis by the County Counsel in the form required by Elections Code section 9500 for the Howell Mountain Elementary School District shall be prepared and filed with the Registrar of Voters on or before 5:00 pm on December 8, 2023; the impartial analysis by the County Counsel, acting as LBRID counsel, in the form required by Elections Code 9313 shall also be prepared and filed with the Registrar of Voters on or before 5:00 pm on December 8, 2023; and the impartial analysis by the Town of Yountville's Attorney shall be prepared and filed with the Registrar of Voters on or before 5:00 pm on December 8, 2023.

BE IT FURTHER RESOLVED that notice be, and it hereby is, given that the Registrar of Voters has determined that the final date for submission of arguments for or against the measures shall be December 15, 2023, and that such arguments shall be submitted to the Registrar at the Office of the Registrar, 1127 1st Street, Ste E, Napa, California, 94559, no later than 4:30 p.m. on said day.

BE IT FURTHER RESOLVED that notice be, and it hereby is, given that the Registrar of Voters has determined that the final date for submission of rebuttal arguments for or against the measures, to the extent rebuttal arguments are permitted by the Elections Code, shall be December 22, 2023 and that such arguments shall be submitted to the Registrar at the Office of

the Registrar, 1127 1st Street, Ste E., Napa, California, 94559, no later than 5:00 p.m. on said day.

BE IT FURTHER RESOLVED that the Registrar conducting the election shall publish the notices required by Elections Code section 9502.

BE IT FURTHER RESOLVED that the Registrar is directed to submit to each of the entities invoices for the election services provided by the Elections Division of the Assessor-Recorder-County Clerk's office in conformity with Elections Code section 10002.

THE FOREGOING RESOLUTION was duly and regularly adopted at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 5th day of December, 2023, by the following vote:

	AYES:	SUPER	VISORS				
	NOES:	SUPER	VISORS				
	ABSENT:	SUPER	VISORS				
					COUNTY, a pate of California	political subdivision of	
				Ву	BELIA RAMO Board of Supe	OS, Chair of the ervisors	
	ROVED AS TO FO				IAPA COUNTY ERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors	
By: Si	ilva Darbinian eputy County Cou		Date: Processed By:			By:	
Date: Nov	vember 21, 2023		Deputy Clerk of	f the Boar	d		

Town of Yountville Resolution Number 23-4233

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YOUNTVILLE
CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL
ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024, FOR THE SUBMISSION TO
THE VOTERS OF ONE QUESTION RELATED TO MEASURE U (INCREASE IN
APPROPRIATIONS (GANN) LIMIT) AND REQUESTING THE NAPA COUNTY BOARD OF
SUPERVISORS CONSOLIDATE AND RENDER SPECIFIED SERVICES TO THE TOWN
RELATING TO THE CONDUCT OF THE STATEWIDE PRIMARY ELECTION TO BE
HELD ON THE SAME DATE.

Recitals

- A. Section 1 of Article 13B of the California Constitution establishes the Town's total annual Appropriations Limit or "Gann" Limit. Section 4 of Article 13B of the California Constitution authorizes the Town's electorate to change the Town's Appropriations Limit, subject to and in conformity with constitutional and statutory voting requirements.
- B. Elections Code section 9222 authorizes the Town Council to call a special election for the purpose of submitting a Town-initiated proposition to the voters.
- C. Elections Code section 12001 requires the Town Council issue a proclamation or resolution to call a special local election.
- D. Elections Code section 1400 requires special elections be held on one of the established election dates set by Division 1 of the Elections Code or on the date of any statewide special election, except as provided in Elections Code section 1003. Elections Code section 1000 establishes March 5, 2024 as an established election date.
- E. Town staff recommends that the Town Council approve the holding of a Special Municipal Election on Tuesday, March 5, 2024, for the submission to the voters of one question related to Measure U (Increase In Appropriations (Gann) Limit).
- F. In accordance with Elections Code sections 340 and 1202, the Statewide Primary Election is to be held on March 5, 2024.
- G. Elections Code section 10418 authorizes the consolidation of statewide and special elections. Elections Code section 10403 requires the Town Council adopt a resolution to request the Napa County Board of Supervisors consolidate the Special Municipal Election with the Statewide Primary Election and to permit the County Registrar of Voters to perform certain services in conjunction with the Special Municipal Election.
- H. It is desirable that the Special Municipal Election be consolidated with the Statewide Primary Election to be held on the same date and that within the Town the precincts, polling places (vote centers), election officers, and ballot measures of the two elections be the same; that the Napa County Election Division canvass the returns of the consolidate election; and that the election be held in all respects as if there were only one election.

Resolution Number 23-4233

Now therefore, the Town Council of the Town of Yountville does resolve, declare, determine and order, as follows:

- 1. That all of the foregoing recitals are true and correct and incorporated herein by reference.
- 2 That, pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the Town of Yountville, Napa, County, California, on Tuesday, March 5, 2024 a Special Municipal Election.
- 3. That the Town Council, pursuant to its right and authority, does order submitted to the voters at the Special Municipal Election the following question:
 - A. That Measure U (Increase In Appropriations (Gann) Limit) is to appear on the ballot as follows:

	No
services, parks & recreation, police and fire emergency programs, shall the appropriations limit set by Article 13B of the California Constitution be increased by \$3,000,000 and the growth in TOT for each year commencing fiscal year 2022/2023 through fiscal year 2026/2027? By approving this appropriation limit, no new taxes are created nor will any existing tax be increased."	
"To fully utilize TOT and sales tax generated from visitors for public	Yes

- 4. That the proposed complete text of Measure U shall be printed in the voter information section of the sample ballot submitted to the voters.
- 5. That, pursuant to the requirements of Elections Code section 10403, the Napa County Board of Supervisors is hereby requested to consent and agree to the consolidation of a Primary Municipal Election with the Statewide Primary Election on Tuesday, March 5, 2024 for the purpose of submitting Measure U to the voters.
- 6. That the ballots to be used at the election shall be in form and content as required by law.
- 7. That the Town Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary to properly and lawfully conduct the election, and to perform all other acts necessary or required by law to implement this Resolution and related to the election.
- 8. For the purposes of said Election, the Town of Yountville is hereby divided into the following precincts: 3511660, 3511661, 3511662 and 3511663. The precincts shall be those used for the Statewide Primary Election and, where necessary, the Napa County Elections Official may adjust precinct lines to coincide with the boundaries of the jurisdiction.
- 9. That the polls (vote centers) for the election shall be open at 7:00 o'clock a.m. of the day of the election and shall remain open continuously from that time until 8:00 o'clock p.m. of the same day when the polls (vote centers) shall be closed.
- 10. That notice of the time and place of holding the election is given and the Town Clerk is authorized, instructed, and directed to give further or additional notice of the election, in the time, form, and

Resolution Number 23-4233

manner as required by law.

- 11. That the Town Clerk is directed to provide a copy of Measure U to the Town Attorney and the Town Attorney shall prepare an impartial analysis. The analysis shall not exceed 500 words in length and shall be filed in the Office of the Yountville Town Clerk, 6550 Yount Street, Yountville, California, no later than Friday, December 8, 2023 at 5:00 p.m. The Town Clerk shall immediately forward the impartial analysis as a Word document to the Napa County Registrar of Voters.
- 12. The Town Council wishes to establish deadlines for the filing of arguments for and against Measure U and to provide for rebuttal arguments as follows:
 - a Printed arguments shall be titled either "Argument In Favor Of Measure" or "Argument Against Measure." Arguments in favor of or in opposition to any measure may not exceed 300 words in length and shall be filed at the office of the Yountville Town Clerk, 6550 Yount Street, Yountville, California, not later than Friday, December 15, 2023 at 5:00 p.m.
 - b. Printed rebuttal arguments shall be titled either "Rebuttal; Argument In Favor Of Measure" and "Rebuttal Argument Against Measure". Rebuttal arguments for any measure may not exceed 250 words in length and shall be filed with the Office of the Yountville Town Clerk, 6550 Yount Street, Yountville, California, not later than Friday, December 22, 2023 at 5:00 p.m.
 - c. If more than one argument for or more than one argument against any Town measure is submitted, the Town Clerk shall select one of the arguments in favor and one argument against the measure, as set forth in Elections Code section 9287.
- 13. That the Napa County Board of Supervisors is requested to issue instructions to the Napa County Election Division to take any and all steps necessary for the holding of the consolidated election including printing and supplying ballots for the Special Municipal Election; mailing the Town's sample ballots to the voters of the Town as part of the material mailed to voters for the Statewide Primary Election; and perform other such services as may be required for the consolidation and conduct of the Special Municipal Election with the Statewide Primary Election.
- 14. That in all particulars not recited in this resolution, the Special Municipal Election shall be held and conducted as provided by law for holding municipal elections.
- 15. That the Napa County Election Division is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, in the manner prescribed in Elections Code section 10418, and only one form of ballot shall be used.
- 16. In accordance with Elections Code section 10410, the election precincts, polling places and voting booths shall, in every case, be the same, and there shall be only one set of election officers in each of the precincts.
- 17. The Town Council recognizes that additional costs will be incurred by the Napa County Election Division by reason of this consolidation. The Town shall reimburse the Napa County Election Division in full for the services performed upon presentation of a properly submitted itemized bill to the Town, as set forth in Elections Code section 10002.
- 18. That the Town Clerk is hereby directed to file a certified copy of this resolution with the Napa

Resolution Number 23-4233

County Board of Supervisors and the Napa County Election Division and issue instructions to the Napa County Election Division to take any and all steps necessary for the holding of the election.

- 19. That the adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code section 21000, et seq. ("CEQA") and 14 Cal. Code Reg. section 1500, et seq. ("CEQA Guidelines"). The calling of a Municipal Election is not a project within the meaning of CEQA pursuant to CEQA Guidelines section 15378, subsection (b)(4) [governmental fiscal activities which do not commit to any specific project] and section 15061, subsection (b)(3) [common sense exemption].
- 20. That the Town Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.
- 21. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Yountville, State of California, held on this 17th day of October 2023 by the following vote:

AYES: McKee-Cant, Knight, Reeves, Trippe, Mohler

NOES: None ABSENT: None ABSTAIN: None

Margie Mohler

Margie Mohler, Mayor

ATTEST:

DocuSigned by:

Eddy Gomez, Town Clerk

Howell Mountain Elementary School District



November 15, 2023

Neha Hoskins Clerk of the Board of Supervisors County of Napa 1195 Third Street, Room 310 Napa, CA 94559

Re: General Obligation Bond Election — March 5, 2024

Dear Ms. Hoskins:

Please find enclosed a certified copy of a resolution adopted on November 15, 2023, by the Board of Trustees of the Howell Mountain Elementary School District ordering a school bond election to be held in the District (the "Resolution") and consolidated with any other elections held in the same territory on March 5, 2024, delivered to you in accordance with Elections Code Section 10403.

The District requests that you see that this election is consolidated as requested in Section 3 of the Resolution.

Thank you for your assistance. If you require any further information or have any questions, please do not hesitate to contact me at (707) 965-2423 or the District's bond counsel, Don Field of Orrick, Herrington & Sutcliffe LLP, at (949) 852-7727.

Very truly yours,

Dr. Janet Tufts, Superintendent

RESOLUTION NO. 2023-07

RESOLUTION OF THE BOARD OF TRUSTEES OF THE HOWELL MOUNTAIN ELEMENTARY SCHOOL DISTRICT ORDERING A SCHOOL BOND ELECTION, AND AUTHORIZING NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Board of Trustees (the "Board") of the Howell Mountain Elementary School District (the "District"), located in the County of Napa (the "County), is authorized to order elections within the District and to designate the specifications thereof, pursuant to Sections 5304 and 5322 of the California Education Code; and

WHEREAS, the Board is specifically authorized to order elections for the purpose of submitting to the electors the question of whether bonds of the District shall be issued and sold for the purpose of raising money for the purposes authorized pursuant to California Education Code Sections 15100 *et seq.*; and

WHEREAS, pursuant to a two-thirds vote of the school district board and subject to Section 15100 of the California Education Code, under paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the Constitution of the State of California (the "California Constitution") and subdivision (b) of Section 18 of Article XVI of the California Constitution, and Section 15266 of the California Education Code, school districts may seek approval of bonds and levy an ad valorem tax to repay those bonds upon a 55% vote of the voters of the district voting on the proposition for the purposes hereinafter specified, provided certain accountability requirements are included in the proposition, including (a) that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIIIA, Section 1(b)(3) of the California Constitution, and not for any other purpose, including teacher and administrator salaries and other school operating expenses, (b) that a list of the specific school facilities projects to be funded be included, and certification that the school district board has evaluated safety, class size reduction, and information technology needs in developing that list, (c) that the school district board conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed, and (d) that the school district board conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects; and

WHEREAS, the Board deems it necessary and advisable to submit such a bond proposition to the electors, which, if approved by at least 55% of the votes cast, would permit the District to issue its bonds; and

WHEREAS, the Board has evaluated the facilities needs of the District in order to determine which projects to finance from a local bond at this time; and

WHEREAS, in order to address the facilities needs of the District, the Board deems it necessary and advisable to fund the specific school facilities projects listed under the heading

entitled "BOND PROJECT LIST" included in the full text of the bond proposition set forth in Exhibit A attached hereto (the "Bond Project List"); and

WHEREAS, the Board has determined that the projects listed on the Bond Project List are authorized to be financed with bonds of the District under subsection (a) of Section 15100 of the California Education Code and are for purposes specified in Article XIIIA, Section 1(b)(3) of the California Constitution, and not for any other purpose, including teacher and administrator salaries and other school operating expenses; and

WHEREAS, in accordance with paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the California Constitution, and as provided in the full text of the bond proposition, the Board has evaluated safety, class size reduction and information technology needs in developing the Bond Project List; and

WHEREAS, in accordance with paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the California Constitution, and as provided in the full text of the bond proposition, annual, independent performance and financial audits shall be required as part of the bond proposition; and

WHEREAS, pursuant to Section 15278 of the California Education Code, if a bond proposition is authorized in accordance with paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution, the governing board of the school district shall establish and appoint members to an independent citizens' oversight committee to ensure that (a) bond revenues are expended only for the purposes specified in Article XIIIA, Section 1(b)(3) of the California Constitution, and (b) that no funds are used for any teacher or administrative salaries or other school operating expenses; and

WHEREAS, in accordance with Section 15278 of the California Education Code, and as provided in the full text of the bond proposition, an independent citizens' oversight committee shall be required as part of the bond proposition; and

WHEREAS, a bond election authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution, must be conducted concurrent with a statewide primary election, general election or special election, or at a regularly scheduled local election at which all of the electors of the District are entitled to vote, as required by Section 15266 of the California Education Code; and

WHEREAS, on March 5, 2024, a statewide primary election is scheduled to be conducted throughout the District; and

WHEREAS, subsection (c) of Section 15100 of the California Education Code provides that, before the governing board of a school district may order an election pursuant to California Education Code Sections 15100 et seq., it shall obtain reasonable and informed projections of assessed property valuations that take into consideration projections of assessed property valuations made by the county assessor; and

WHEREAS, although the County Assessor does not make projections of assessed property valuations beyond the next succeeding tax year, the Board has been presented with projections of assessed property valuations of the property within the boundaries of the District in connection with developing the bond proposition that take into consideration, among other things, the long-term historical average growth rates of assessed property valuations of the property within the boundaries of the District and the Board finds those projections to be reasonable and informed; and

WHEREAS, the Board has determined that, based upon such projections of assessed property valuation, if approved by voters, the tax rate levied to meet the debt service requirements of the bonds proposed to be issued will not exceed the maximum tax rate permitted by Section 15268 of the California Education Code; and

WHEREAS, Section 9400 et seq. of the California Elections Code requires that a tax information statement be contained in all official materials, including any voter information guide prepared, sponsored or distributed by the District, relating to the election; and

WHEREAS, the Board now desires to authorize the filing of a ballot argument in favor of the bond proposition to be submitted to the voters at the election; and

WHEREAS, the District expects to pay certain expenditures (the "Reimbursement Expenditures") in connection with the projects listed in the Bond Project List prior to financing the costs associated with such projects on a long-term basis; and

WHEREAS, the District reasonably expects that certain of the proceeds of the bonds proposed to be issued under the bond proposition, if approved by voters, will be used to reimburse the Reimbursement Expenditures; and

WHEREAS, Section 1.150-2 of the Treasury Regulations requires the District to declare its reasonable official intent to reimburse prior expenditures for the projects listed in the Bond Project List with proceeds of a subsequent borrowing;

WHEREAS, if any project to be funded by the bonds will require State of California matching grant funds for any phase, the sample ballot must contain a statement, in the form prescribed by law, advising the voters that such project is subject to the approval of State matching funds and, therefore, passage of the bond proposition is not a guarantee that the project will be completed, and the Board finds that completion of no portion of the projects listed in the Bond Project List will require State matching grant funds for any phase thereof; and

NOW, THEREFORE, be it resolved, determined and ordered by the Board of Trustees of the Howell Mountain Elementary School District as follows:

Section 1. Recitals. All of the above recitals are true and correct.

Section 2. Specifications of Election Order; Required Certification. Pursuant to California Education Code Sections 5304, 5322, 15100 et seq., and 15266, and paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution, a special election shall be held

within the boundaries of the District on March 5, 2024, for the purpose of submitting to the registered voters of the District the bond proposition contained in Exhibit A attached hereto and incorporated herein. In accordance with paragraph (3) of subdivision (b) of Section 1 of Article XIIIA of the California Constitution, and as provided in the full text of the bond proposition, the Board hereby certifies that it has evaluated safety, class size reduction and information technology needs in developing the Bond Project List.

- Section 3. Conduct of Election. (a) Request to County Officers. Pursuant to Section 5303 of the California Education Code, the Registrar of Voters of the County (the "Registrar of Voters") is required to, and is hereby requested to, take all steps to hold the election in accordance with law and these specifications.
- (b) Abbreviation of Proposition. Pursuant to Sections 13119 and 13247 of the California Elections Code and Sections 5322 and 15122 of the California Education Code, the Board hereby directs the Registrar of Voters to use the following statement of the bond proposition on the ballot:

"To construct an early learning center to support transitional kindergarten, upgrade technology, renovate/replace roofs, windows, flooring, cabinetry, HVAC systems and music building, and improve playfields and paved surfaces, shall the Howell Mountain Elementary School District measure authorizing \$9,000,000 in bonds, at legal interest rates, and levying approximately \$30 per \$100,000 of assessed valuation (raising \$531,000 annually) while bonds are outstanding, be adopted, with an appointed citizens' oversight committee and independent audits to assure proper expenditure of funds?"

- (c) Voter Pamphlet. The Registrar of Voters is hereby requested to reprint the full text of the bond proposition as set forth in Exhibit A in its entirety in the voter information pamphlet to be distributed to voters.
- (d) State Matching Funds. The District has determined that the projects to be funded from the proposed bonds will not require State matching funds for any phase thereof, and that Section 15122.5 of the California Education Code does not apply to the bond proposition, and accordingly, the Registrar of Voters is directed not to include the disclosure otherwise required by Section 15122.5 of the California Education Code.
- (e) Consolidation Requirement. Pursuant to Section 15266(a) of the California Education Code, the election shall be consolidated with the statewide primary election on March 5, 2024, and pursuant to California Education Code Section 5342 and Part 3 (commencing with Section 10400) of Division 10 of the California Elections Code, the Registrar of Voters and the Board of Supervisors of the County are hereby requested to order consolidation of the election with such other elections as may be held on the same day in the same territory or in territory that is in part the same. The District hereby acknowledges that the consolidated election will be held and conducted in the manner prescribed by Section 10418 of the California Elections Code.

- (f) Canvass of Results. The Board of Supervisors of the County is authorized and requested to canvass the returns of the election, pursuant to Section 10411 of the California Elections Code.
- (g) Required Vote. Pursuant to Section 18 of Article XVI and Section 1 of Article XIIIA of the California Constitution, the bond proposition shall become effective upon the affirmative vote of at least 55% of the voters of the District voting on the proposition.
- (h) Election Costs. The District shall pay all costs of the election approved by the Board of Supervisors of the County pursuant to California Education Code Section 5421.
- Section 4. Delivery of Order of Election to County Officers. The Clerk of the Board of the District is hereby directed to cause to be filed as soon as practicable, and in any event no later than December 8, 2023 (which date is not fewer than 88 days prior to the date set for the election), one copy of this Resolution to the Registrar of Voters, including the tax information statement attached hereto as Exhibit B, containing the information required by California Elections Code Section 9400 et seq., completed and signed by the Superintendent of the District, with such technical corrections or additions as deemed necessary by the Superintendent of the District, and shall file a copy of this Resolution with the Clerk of the Board of Supervisors of the County. With respect to the tax information statement attached hereto as Exhibit B, the Board hereby adopts the procedures set forth in Election Code Section 9405.
- Section 5. Ballot Arguments. The President of the Board, or any member or members of the Board as the President shall designate, are hereby authorized, but not directed, to prepare and file with the Registrar of Voters a ballot argument in favor of the bond proposition and a rebuttal argument to the argument against the bond proposition, if any, within the time established by the Registrar of Voters, which shall be considered the official ballot argument of the Board as sponsor of the bond proposition.
- Section 6. Declaration of Official Intent to Reimburse. The District hereby declares its official intent to use proceeds of the bonds proposed to be issued under the bond proposition to reimburse itself for Reimbursement Expenditures. This declaration is made solely for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations. This declaration does not bind the District to make any expenditure, incur any indebtedness, or proceed with the projects listed in the Bond Project List.
- Section 7. Further Authorization. The members of the Board, the Superintendent of the District, and all other officers of the District are hereby authorized and directed, individually and collectively, to do any and all things that they deem necessary or advisable in order to effectuate the purposes of this resolution in accordance with the terms hereof and of applicable provisions of law.

Section 7. Effective Date. This Resolution shall take effect upon its adoption by a two-thirds vote.

PASSED AND ADOPTED this day, November 15, 2023, by the following vote:

AYES: Dexter, Verduzco, Gosling, Yorgusen, Hackett

NOES: Ø

ABSTAIN:

ABSENT: 💋

APPROVED:

President of the Board of Trustees of the Howell Mountain Elementary School

District

Attest:

Clerk of the Board of Trustees of the

Howell Mountain Elementary School District

EXHIBIT A

FULL TEXT OF BOND PROPOSITION

HOWELL MOUNTAIN ELEMENTARY SCHOOL DISTRICT SCHOOL SAFETY, RENOVATION AND CONSTRUCTION MEASURE

This proposition may be known and referred to as the "Howell Mountain Elementary School District School Safety, Renovation and Construction Measure" or as "Measure __". [designation to be assigned by County Registrar of Voters]

BOND AUTHORIZATION

By approval of this proposition by at least 55% of the voters of the Howell Mountain Elementary School District (the "District") voting on the proposition, the District shall be authorized to issue and sell bonds of up to \$9,000,000 in aggregate principal amount to provide financing for the specific school facilities projects listed under the heading entitled "BOND PROJECT LIST" below (the "Bond Project List"), subject to all of the accountability safeguards specified below.

ACCOUNTABILITY SAFEGUARDS

The provisions in this section are specifically included in this proposition in order that the voters and taxpayers of the District may be assured that their money will be spent to address specific school facilities needs of the District, all in compliance with the requirements of Article XIIIA, Section 1(b)(3) of the Constitution of the State of California (the "California Constitution"), and the Strict Accountability in Local School Construction Bonds Act of 2000 (codified at Sections 15264 and following of the California Education Code).

Evaluation of Needs. The Board of Trustees of the District (the "Board") has evaluated the facilities needs of the District in order to determine which projects to finance from a local bond at this time. In order to address the facilities needs of the District, the Board deems it necessary and advisable to fund the specific school facilities projects listed in the Bond Project List. The Board hereby certifies that it has evaluated safety, class size reduction and information technology needs in developing the Bond Project List.

<u>Limitations on Use of Bonds</u>. Proceeds from the sale of bonds authorized by this proposition shall be used only for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses. More specifically, the Bond Project List provides for the specific projects the District proposes to

finance with proceeds from the sale of bonds authorized by this proposition and such proceeds shall be applied only to those specific purposes.

Independent Citizens' Oversight Committee. In accordance with and pursuant to California Education Code Section 15278 et seq., the Board shall establish an independent citizens' oversight committee, within 60 days of the date that the Board enters the election results on its minutes pursuant to Section 15274 of the California Education Code, to ensure that (a) bond revenues are expended only for the purposes specified in Article XIIIA, Section 1(b)(3) of the California Constitution, and (b) that no funds are used for any teacher or administrative salaries or other school operating expenses. In accordance with Section 15282 of the California Education Code, the citizens' oversight committee shall consist of at least seven members and shall include a member active in a business organization representing the business community located within the District, a member active in a senior citizens' organization, a member active in a bona fide taxpayers' organization, a member that is a parent or guardian of a child enrolled in the District, and a member that is both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization. No employee or official of the District and no vendor, contractor or consultant of the District shall be appointed to the citizens' oversight committee.

Annual Performance Audits. In compliance with the requirements of Article XIIIA, Section 1(b)(3)(C) of the California Constitution, and the Strict Accountability in Local School Construction Bonds Act of 2000, the Board shall conduct an annual, independent performance audit to ensure that the proceeds from the sale of bonds authorized by this proposition have been expended only on the school facilities projects listed in the Bond Project List. These audits shall be conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States for performance audits. The results of these audits shall be made publicly available and shall be submitted to the citizens' oversight committee in accordance with Section 15286 of the California Education Code.

Annual Financial Audits. In compliance with the requirements of Article XIIIA, Section 1(b)(3)(D) of the California Constitution, and the Strict Accountability in Local School Construction Bonds Act of 2000, the Board shall conduct an annual, independent financial audit of the proceeds from the sale of bonds authorized by this proposition until all of those proceeds have been spent for the school facilities projects listed in the Bond Project List. These audits shall be conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States for financial audits. The results of these audits shall be made publicly available and shall be submitted to the citizens' oversight committee in accordance with Section 15286 of the California Education Code.

Special Bond Proceeds Account; Annual Report to Board. In compliance with the requirements of California Government Code Section 53410 and following, upon approval of this proposition and the sale of any bonds approved, the Board shall take actions necessary to establish an account in which proceeds of the sale of bonds authorized by this proposition shall be deposited. In

compliance with the requirements of California Government Code Section 53411, as long as any proceeds of the bonds remain unexpended, the chief fiscal officer of the District shall cause a report to be filed with the Board at least once a year, stating (a) the amount of funds collected and expended in that year, and (b) the status of any project required or authorized to be funded from bond proceeds. The report may relate to the calendar year, fiscal year, or other appropriate annual period as the chief fiscal officer of the District shall determine, and may be incorporated into the annual budget, audit, or other appropriate routine report to the Board.

FURTHER SPECIFICATIONS

<u>Single Purpose</u>. All of the purposes enumerated in this proposition shall be united and voted upon as one single proposition, pursuant to California Education Code Section 15100, and all the enumerated purposes shall constitute the specific single purpose of the bonds, and the proceeds from the sale of bonds authorized by this proposition shall be spent only for such purpose, pursuant to California Government Code Section 53410.

Other Terms of the Bonds. When sold, the bonds shall bear interest at an annual rate not exceeding the statutory maximum, and that interest shall be made payable at the time or times permitted by law. The bonds may be issued and sold in several series, and no bond shall be made to mature more than the statutory maximum number of years from the date borne by that bond.

BOND PROJECT LIST

The Bond Project List below lists the specific projects the District proposes to finance with proceeds of the bonds. The Bond Project List shall be considered a part of this bond proposition and shall be reproduced in any official document required to contain the full statement of the bond proposition. Listed projects will be completed as needed at a particular school or school facility site according to Board-established priorities, and the order in which such projects appear on the Bond Project List is not an indication of priority for funding or completion. In so far as permitted by law, each project is assumed to include its share of costs of the election and bond issuance, construction-related costs, such as project and construction management, architectural, engineering, inspection and similar planning and testing costs, demolition and interim housing costs, legal, accounting and similar fees, costs related to the independent annual financial and performance audits, a contingency for unforeseen design and construction costs, and other costs incidental to or necessary for completion of the listed projects (whether the related work is performed by the District or third parties). The final cost of each project will be determined as plans are finalized, construction bids are awarded, and projects are completed. In addition, certain project funds expected from non-local bond sources have not yet been secured. Therefore, the Board cannot guarantee that the bond proceeds will provide sufficient funds to allow completion of all listed projects. Alternatively, if the District obtains unexpected funds from non-local bond sources with respect to listed projects, such projects may be enhanced, supplemented or expanded to the extent of such funds. Some projects may be subject to further government approvals, including by State officials and boards and/or local environmental or agency approval. Inclusion of a project on the Bond Project List is not a guarantee that the project will be completed (regardless of whether bond funds are available).

The specific projects authorized to be financed with proceeds from the sale of bonds authorized by this proposition are as follows:

DISTRICT WIDE PROJECTS

The following projects are authorized to be financed at District school facilities:

- Construct an early learning center to support transitional kindergarten.
- Repair or replace roofs.
- Replace heating, ventilation and cooling (HVAC) systems.
- Increase student access to computers and modern technology. Update and/or acquire and install technology equipment, fixtures and infrastructure, including computers, tablets, mobile devices, software, interactive educational technology, digital projectors and cameras, monitors, audio systems, video systems, network equipment (including servers, network interface devices, network switches and routers, wireless network equipment, firewalls, network security equipment, racking, power and cooling equipment, wiring and uninterruptible power supplies), etc; rehabilitate and replace such equipment, fixtures and infrastructure as needed in the future. Technology equipment, fixtures and infrastructure includes existing technology equipment, fixtures and infrastructure as well as technology equipment, fixtures and infrastructure developed in the future.
- Make health, safety and accessibility improvements.
- Renovate, replace, upgrade and/or acquire and install windows, including hardware and coverings, flooring, casework and cabinets.
- Renovate portable music building or replace it with a permanent, portable or modular music building.
- Renovate playfields, including replacing turf and installing new irrigation and drainage systems.
- Renovate, replace and/or upgrade paved surfaces.
- Replace and/or acquire and install play structures/equipment.
- Renovate, improve or replace pillars and structural supports.

MISCELLANEOUS

All listed bond projects include the following as needed:

- Planning, designing and providing temporary housing necessary for listed bond projects.
- The inspection, sampling and analysis of grounds, buildings and building materials
 to determine the presence of hazardous materials or substances, including asbestos,
 lead, etc., and the encapsulation, removal, disposal and other remediation or
 control of such hazardous materials and substances.

- Seismic and historical evaluations, site surveys (including topographic, geological and utility surveys), and infrastructure analyses.
- Necessary onsite and offsite preparation or restoration in connection with new
 construction, renovation or remodeling, or installation or removal of relocatable
 buildings or other temporary buildings, including demolition of structures;
 removing, replacing, or installing irrigation, drainage, utility lines (gas, water,
 sewer, electrical, data and voice, etc.), trees and landscaping; and relocating fire
 access roads or ingress/egress pathways.
- Address other unforeseen conditions revealed by construction, renovation or modernization (including plumbing or gas line breaks, dry rot, seismic and structural deficiencies, etc.).
- Acquire or construct other improvements required to comply with building codes, including seismic safety requirements, the Field Act, and access requirements.
- Acquisition of any rights-of-way, easements, licenses and/or real property made necessary by listed bond projects, or lease of real property made necessary by the listed bond projects.
- Acquire or construct storage facilities and other space on an interim basis, as needed to accommodate construction materials, equipment, and personnel.
- Furnishing and equipping of classrooms and other school facilities; furnishing and equipping shall include initial purchases, and scheduled and necessary replacements, upgrades and updating of technology.
- All other costs and work necessary or incidental to the listed bond projects.

PROJECTS INVOLVING RENOVATION, REHABILITATION OR REPAIR

For any project involving renovation, rehabilitation or repair of a building or the major portion of a building, the District shall be authorized to proceed with new replacement construction instead (including any necessary demolition) if the Board of Trustees determines that replacement new construction is more practical than renovation, rehabilitation or repair, considering the building's age, condition, expected remaining life, comparative cost and other relevant factors.

GENERAL PROVISIONS

Interpretation. The terms of this bond proposition and the words used in the Bond Project List shall be interpreted broadly to effect the purpose of providing broad and clear authority for the officers and employees of the District to provide for the school facilities projects the District proposes to finance with the proceeds of the sale of bonds authorized by this proposition within the authority provided by law, including Article XIIIA, Section 1(b)(3) of the California Constitution, California Education Code Section 15000 et seq. and the Strict Accountability in Local School Construction Bonds Act of 2000. Without limiting the generality of the foregoing, such words as repair, improve, upgrade, expand, modernize, renovate, and reconfigure are used in the Bond Project List to describe school facilities projects in plain English and are not intended to expand the nature of such projects beyond, or have an effect on, and shall be interpreted to only permit, what is authorized under Article XIIIA, Section 1(b)(3) of the California Constitution, California Education Code Section 15000 et seq. and the

Strict Accountability in Local School Construction Bonds Act of 2000. In this regard, the Bond Project List does not authorize, and shall not be interpreted to authorize, expending proceeds of the sale of bonds authorized by this proposition for current maintenance, operation or repairs. The school facilities projects on the Bond Project List only authorize capital expenditures.

Estimated Ballot Information. The Board hereby declares, and the voters by approving this bond proposition concur, that the information included in the statement of the bond proposition to be voted on pursuant to Section 13119 of the California Elections Code is based upon the District's projections and estimates only and is not binding upon the District. The amount of money to be raised annually and the rate and duration of the tax to be levied for the bonds may vary from those presently estimated due to variations from these estimates in the timing of bond sales, the amount of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount of bonds sold at any given time will be determined by the District based on need for project funds and other factors. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the District as determined by the County Assessor in the annual assessment and the equalization process.

<u>Headings</u>. The headings or titles of the sections of the bond proposition, including any headings or titles included in the Bond Project List, are solely for convenience of reference and shall not affect the meaning, construction or effect of the bond proposition.

Severability. The Board hereby declares, and the voters by approving this bond proposition concur, that every section and part of this bond proposition has independent value, and the Board and the voters would have adopted each provision hereof regardless of every other provision hereof. Upon approval of this bond proposition by the voters, should any part be found by a court of competent jurisdiction to be invalid for any reason, all remaining parts hereof shall remain in full force and effect to the fullest extent allowed by law, and to this end the provisions of this bond proposition are severable.

EXHIBIT B

TAX INFORMATION STATEMENT

An election will be held in the Howell Mountain Elementary School District (the "District") on March 5, 2024, to authorize the sale of up to \$9,000,000 in bonds of the District to finance school facilities as described in the proposition. If the bond proposition is approved by at least 55% of the voters of the District voting on the bond proposition, the District expects to issue the bonds in multiple series over time. Principal and interest on the bonds will be payable from the proceeds of tax levies made upon the taxable property in the District. The following information is provided in compliance with Sections 9400 through 9405 of the California Elections Code.

- The best estimate of the average annual tax rate that would be required to be levied to 1. fund this bond issue over the entire duration of the bond debt service, based on assessed valuations available at the time of filing of this statement, is \$29.00 per \$100,000 (2.9 cents per \$100) of assessed valuation. The final fiscal year in which the tax to be levied to fund this bond issue is anticipated to be collected is fiscal year 2059-60.
- The best estimate of the highest tax rate that would be required to be levied to fund this bond issue, based on estimated assessed valuations available at the time of filing of this statement, is \$30.00 per \$100,000 (3.0 cents per \$100) of assessed valuation in fiscal year 2024-25.
- The best estimate of the total debt service, including the principal and interest, that would be required to be repaid if all of the bonds are issued and sold is approximately \$19,100,000.

Voters should note that estimated tax rates are based on the ASSESSED VALUE of taxable property on the County's official tax rolls, not on the property's market value, which could be more or less than the assessed value. In addition, taxpayers eligible for a property tax exemption, such as the homeowner's exemption, will be taxed at a lower effective tax rate than described above. Property owners should consult their own property tax bills and tax advisors to determine their property's assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon the District's projections and estimates only, which are not binding upon the District. The average annual tax rate, the highest tax rate, the final fiscal year in which the tax is anticipated to be collected and the year or years in which they will apply, and the actual total debt service, may vary from those presently estimated for a variety of reasons, including, without limitation, due to variations in the timing of bond sales, the amount or amortization of bonds sold, market conditions at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount or amortization of bonds sold at any given time will be determined by the District based on need for project funds and other factors, including the legal limitations on bonds approved by a 55% affirmative vote. Market conditions, including, without limitation, interest rates, are affected by economic and other factors beyond the control of the District and will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the District as determined by the County Assessor in the annual assessment and the equalization process. The growth or decline in assessed valuation is the result of a number of economic and other factors outside the control of the District.

Dated: //. /5 , 2023.

Dr. Janet Juses
Superintendent

Howell Mountain Elementary School District

CLERK'S CERTIFICATE

I, Wendy Yorgensen, Clerk of the Board of Trustees of the Howell Mountain Elementary School District, County of Napa, California, hereby certify as follows:

The attached is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Board of Trustees of the District held at the regular meeting place thereof on November 15, 2023, and entered in the minutes thereof, of which meeting all of the members of the Board of Trustees had due notice and at which a quorum thereof was present. The resolution was adopted by the following vote:

AYES: Dexter, Verduzco, Gasling, Yorginsen, Hackett

NOES:

ABSTAIN:

ABSENT: 🖊

An agenda of the meeting was posted at least 72 hours beforehand at 525 White Cottage Road North, Angwin, California, a location freely accessible to members of the public, and on the District's website at drive.google.com/drive/folders/1ecnROJSwRLl6Gk566vAFdl8I_qAoZxcz, and a brief description of the adopted resolution appeared on the agenda. A copy of the agenda is attached hereto. The resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

WITNESS my hand this 15th day of November, 2023.

Clerk of the Board of Trustees

Howell Mountain Elementary School District

COPY

RESOLUTION NO.	(LBRID)
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RESOLUTION OF THE GOVERNING BOARD OF THE LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT CALLING A SPECIAL ELECTION AND REQUESTING IT BE CONSOLIDATED WITH THE MARCH 5, 2024, PRESIDENTIAL PRIMARY ELECTION, TO ENABLE THE REGISTERED VOTERS OF THE DISTRICT TO ESTABLISH THE DISTRICT'S APPROPRIATIONS LIMIT FOR FISCAL YEARS 2024-2025 THROUGH 2027-2028

WHEREAS, the Lake Berryessa Resort Improvement District ("District") is a Resort Improvement District organized and operating pursuant to section 13000 et seq. of the Public Resources Code; and

WHEREAS, the District is required by Article XIIIB of the California Constitution to establish an appropriations limit; and

WHEREAS, section 4 of Article XIIIB authorizes the electorate of a governmental entity to amend that entity's appropriations limit, provided the duration of the amendment cannot exceed four years from the most recent vote of the electors increasing the limit; and

WHEREAS, a special tax known as the "T-1" special tax was approved by the voters of the District on January 13, 1998, and a corresponding increase in the District's appropriations limit was approved at that same election to avoid having to return some or all of that tax revenue in the form of a revision of the tax rates or fee schedules rather than utilizing said tax revenues for the purposes set forth in the tax measure; and

WHEREAS, on July 18, 2000, the voters of the District approved a second special tax known as the "T-2000" special tax and again approved an increase in the District's appropriations limit to avoid having to return a portion of the tax revenues received from the T-1 and T-2000 special taxes (during the period beginning with Fiscal Year 2000-2001 and ending with Fiscal Year 2003-2004) in the form of a revision of the tax rates or fee schedules rather than utilizing said tax revenues for the purposes set forth in those tax measures; and

WHEREAS, on June 29, 2004, the voters of the District approved and established a new appropriations limit for the period beginning with Fiscal Year 2004-2005 and ending with Fiscal Year 2007-2008 to avoid having to return a portion of the revenues that would be received from the T-1 and T-2000 special taxes in the form of a revision of the tax rates or fee schedules rather than utilizing the tax revenues for the purposes set forth in those tax measures; and

WHEREAS, on September 16, 2008, the voters of the District approved and established a new appropriations limit for the period beginning with Fiscal Year 2008-2009 and ending with Fiscal Year 2011-2012 to avoid having to return a portion of the revenues that would be received from the T-1 and T-2000 special taxes in the form of a revision of the tax rates or fee schedules rather than utilizing the tax revenues for the purposes set forth in those tax measures; and

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PL Doc. No. 103539

WHEREAS, on June 30, 2010, the T-2000 special tax expired; and

WHEREAS, on May 8, 2012, the voters of the District approved and established a new appropriations limit for the period beginning with Fiscal Year 2012-2013 and ending with Fiscal Year 2015-2016 to avoid having to return a portion of the revenues that were expected to be received from property tax, excess ERAF, and the T-1 special tax in the form of a revision of the tax rates or fee schedules rather than utilizing those revenues for the purpose of operating the District; and

WHEREAS, on October 11, 2016, the voters of the District approved and established a new appropriations limit for the period beginning with Fiscal Year 2016-2017 and ending with Fiscal Year 2019-2020 to avoid having to return a portion of the revenues that were expected to be received from property tax, excess ERAF, and the T-1 special tax in the form of a revision of the tax rates or fee schedules rather than utilizing those revenues for the purpose of operating the District; and

WHEREAS, on May 19, 2020, the voters of the District approved and established a new appropriations limit for the period beginning with Fiscal Year 2020-2021 and ending with Fiscal Year 2023-2024 to avoid having to return a portion of the revenues that were expected to be received from property tax, excess ERAF, and the T-1 special tax in the form of a revision of the tax rates or fee schedules rather than utilizing those revenues for the purpose of operating the District; and

WHEREAS, on June 30, 2024, the authorization for an appropriations limit that exceeds the base appropriations limit will expire, and unless a new appropriations limit is approved and established by the voters, the District's appropriations limit will revert to \$55,870.00; and

WHEREAS, it is now necessary for the voters to approve and establish a new appropriations limit to avoid having to return a portion of the revenues that are expected to be received from property tax, excess ERAF, and the T-1 special tax during Fiscal Years 2024-2025 through 2027-2028 in the form of a revision of the tax rates or fee schedules rather than utilizing those revenues for the purpose of operating the District; and

WHEREAS, the Governing Board of the District ("Board") believes that establishing a new appropriations limit as set forth herein is in the best interests of the residents of the District; and

WHEREAS, the Board desires to call a special election to establish the District's appropriations limit, and to consolidate the special election with the Presidential Primary Election to be held on March 5, 2024; and

WHEREAS, to consolidate a District election with a statewide election, the Board is required to file a resolution with the Board of Supervisors requesting consolidation, pursuant to Elections Code section 10403;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Lake Berryessa Resort Improvement District, as follows:

1. The District's appropriations limit should be established as follows:

Fiscal Years	Proposed Appropriations Limit
2024-2025 through 2027-2028	\$510,000.00 for Fiscal Year 2024-2025, with this limit to be adjusted annually to the extent authorized by Section 1 of Article XIIIB of the California Constitution for Fiscal Years 2025-2026, 2026-2027 and 2027-2028.

- 2. The Board, pursuant to the provisions of Elections Code section 12001, hereby orders and proclaims that the question of whether District's appropriations limit for Fiscal Years 2024-2025 through 2027-2028 should be established as set forth herein shall be submitted to the electors of the District as LBRID Measure U at a special election to be held and conducted on March 5, 2024.
- 3. The Board hereby requests the special election be consolidated with the Presidential Primary Election to be held on March 5, 2024, acknowledging that the consolidated election will be held and conducted in the manner prescribed by Elections Code section 10418.
- 4. Pursuant to section 10002 of the Elections Code, the Napa County Board of Supervisors is requested to permit the Napa County Registrar of Voters ("Registrar") to act as the elections official for this special election. Subject to approval of the District's request by the Board of Supervisors, the District shall reimburse the County in full for the costs of any services so provided.
- 5. That the following question be submitted as a measure on the ballot at said special election, and that the Registrar is requested to place the same on the ballot in the following form:

Shall Lake Berryessa Resort Improvement District Ordinance No. 2024-01 (LBRID) be approved?	YES
(The Ordinance will establish the District's appropriations limit at \$510,000.00, for Fiscal Years 2024-2025 through 2027-2028 and this limit will be adjusted annually commencing in Fiscal Year 2025-2026 to the extent authorized by Article XIIIB, Section 1 of the California Constitution for Fiscal Years 2025-2026 through 2027-2028.)	NO

6. County Counsel, acting as District Counsel, shall prepare an impartial analysis of the measure in the form required by Elections Code section 9313.

- 7. Pursuant to Elections Code sections 9316 and 9317, the Registrar shall fix and determine reasonable dates before the special election for the submission of an argument in favor of and against the measure, and additional rebuttal arguments, and that such arguments shall be submitted to the Registrar at the Office of the Registrar, 1127 First Street, Suite E, Napa, California 94559, no later than 5:00 p.m. on said dates.
- 8. The Registrar is requested to include Exhibit "A" (the proposed ordinance setting the District's appropriations limit for Fiscal Years 2024-2025 through 2027-2028) as a part of the official ballot materials, as authorized by Elections Code section 9313.
- 9. Should LBRID Measure U be approved by a majority of ballots timely cast, the Chair of the District Board shall sign the proposed ordinance attached hereto as Exhibit "A."

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Governing Board of the Lake Berryessa Resort Improvement District at a regular meeting held on the 28th day of November, 2023, by the following vote:

	AYES:	MEMB	BERS			
	NOES:	MEMB	SERS			
	ABSTAIN:	MEMB	SERS			
	ABSENT:	MEMB	BERS			
				LAKE BERRYESSA F DISTRICT, a special di California		ENT
				BELIA RAMOS, Chair	of the Governing Board	1
Office	VED AS TO FOR of County Counse		SUPERVISOR BOARD OF T	D BY THE BOARD OF S, AS THE GOVERNING THE LAKE BERRYESSA PROVEMENT DISTRICT	ATTEST: NEHA HOS Secretary of the Dist	rict
-	uty County Couns ember 14, 2023	el —	Date:Processed By:		By:	
			Deputy Secretary	y of the District		

EXHIBIT "A"

ORDINANCE NO. 2024-01 (LBRID)

AN ORDINANCE OF THE LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT, SETTING THE DISTRICT'S APPROPRIATIONS LIMIT FOR FISCAL YEARS 2024-2025 THROUGH 2027-2028, PURSUANT TO SECTION 4 OF ARTICLE XIIIB OF THE CALIFORNIA CONSTITUTION

The people of the Lake Berryessa Resort Improvement District ("District") do ordain as follows:

SECTION 1. Recitals.

- (a) The District is required by Article XIIIB of the California Constitution to establish an appropriations limit.
- (b) The District anticipates that it will exceed its base appropriations limit in Fiscal Year 2024-2025, and subsequent fiscal years as the result of revenues expected to be received from property taxes, excess ERAF, and the T-1 special tax.
- (c) Section 4 of Article XIIIB authorizes the electorate of a governmental entity to increase its appropriations limit, and the electorate of the District wants to do so to ensure that all the revenues from these three sources will continue to be used for their intended purpose which is to operate the District's water and sewer facilities.

SECTION 2. Setting of Appropriations Limit.

(a) The District's appropriations limit shall be \$510,000.00 for Fiscal Years 2024-2025 through 2027-2028, and this limit will be adjusted annually commencing in Fiscal Year 2025-2026 to the extent authorized by subparagraph (b). This \$510,000.00 appropriations limit is an increase over the Base Appropriations Limit that was established in 1979, as adjusted annually for changes in the cost of living and changes in population during subsequent years,

which adjustments are expressly permitted by section 1 of Article XIIIB of the California Constitution.

(b) For Fiscal Years 2025-2026 through 2027-2028, this \$510,000.00 appropriations limit shall be adjusted annually to the extent authorized by section 1 of Article XIIIB of the California Constitution.

This ordinance shall be considered as adopted upon the date the vote is declared by the District Board and shall go into effect ten (10) days after that date, pursuant to Elections Code section 9320.

The foregoing ordinance was passed by a vote of the people of the Lake Berryessa Resort Improvement District located in Napa County, on March 5, 2024, by the following vote:

AYES:				
NOES:		_		
The vote on this ordinance wa	as declared by	the District Board on _	, 2024.	
		LAKE BERRYESSA DISTRICT, a special of California	RESORT IMPROVEMEN district of the State of	Τ
		, Chair o	of the Governing Board	

APPROVED BY THE BOARD OF	ATTEST: NEHA HOSKINS
SUPERVISORS, AS THE GOVERNING	Secretary of the District
BOARD OF THE LAKE BERRYESSA	·
RESORT IMPROVEMENT DISTRICT	
	By:
Date:	•
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Deputy Secretary of the District	
	SUPERVISORS, AS THE GOVERNING BOARD OF THE LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT Date: Processed By:



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1551

TO: Board of Supervisors

FROM: Ryan J. Alsop, County Executive Officer

REPORT BY: Daniel Sanchez, Senior Management Analyst

SUBJECT: Fire Administration Office Lease

RECOMMENDATION

County Executive Officer requests the following:

- 1. Approval of a Budget Amendment increasing Fire-Building Rents (2100000-52605) by \$90,000 from available fund balance (4/5 vote required); and
- 2. Approval of and authorization for the Chair to sign Lease Agreement 240226B, with H4IT Napa LLC, for \$14,500 per month for the term January 15, 2024-January 31, 2029 with a five-year extension option with an annual 3% escalation rate to relocate Fire Operations and Fire Marshal offices to 951 California Boulevard, Napa.

EXECUTIVE SUMMARY

The Fire Operations and Fire Marshal office is located on the second floor of the Hall of Justice (HOJ). Employees located on this floor are experiencing an adverse working environment from certain building failures. Staff recommends Fire Operations and Fire Marshal staff relocate to available commercial office space near Downtown Napa for five years to provide customer access, enhance customer service, and maintain adjacency to other county departments.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? No

Is it Mandatory or Discretionary?

Discretionary

Is the general fund affected?

Future fiscal impact: Rent payments totaling approx. \$174,000/year will be budgeted in

future years.

Board of Supervisors

Agenda Date: 12/5/2023

File ID #: 23-1551

Consequences if not approved:

An alternative office space will need to be identified.

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

Fire Operations and Fire Marshal offices are located on the second floor of the Hall of Justice (HOJ). Employees located on this floor are experiencing an adverse working environment from certain building failures. Probation Department staff has temporarily relocated to the Reentry Facility and the Juvenile Justice Center. Staff recommends Fire Operations and Fire Marshal functions relocate to available commercial office space for a five-year period until permanent space is provided. The Fire Marshal's office needs accessibility to permit applicants and other county departments. Further, the identified space will allow staff to offer training demonstrations for the public.

NAPA COUNTY AGREEMENT NO. 240226B LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Agreement") is made and entered into as of this 27th day of November 2023 by and between H4IT Napa LLC, a California Limited Company, hereinafter referred to as "Lessor," and the COUNTY OF NAPA, 1195 Third Street, Room 310, Napa, California 94559, a political subdivision of the State of California, hereinafter referred to as "Lessee," as follows:

TERMS

1. <u>DESCRIPTION OF LEASED PREMISES</u>: Lessor hereby leases to Lessee, and Lessee hires from Lessor, on the terms and conditions hereinafter set forth, those certain premises with appurtenances thereto (collectively referred to as "the Demised Premises"), commonly known as 951 California Blvd and situated in the City of Napa, County of Napa, State of California, which is depicted in Exhibit A, attached hereto and incorporated herein by this reference, and is more specifically described as follows:

That portion of Lessor's building and premises identified as Assessor's Parcel Number 004-491-025, in the County of Napa, State of California, situated at 951 California Blvd, within the City of Napa.

2. <u>TERM</u>: The term of this Agreement shall commence January 15, 2024 and expire on January 31, 2029, unless terminated earlier in accordance with Paragraphs 15 and 16. Lessee shall have the option of extending the lease an additional five (5) years to January 1, 2034, upon expiration of the initial term of the lease. Lessee shall notify the Lessor of Lessee's election to exercise this option in writing no less than six (6) months and no more than eight (8) months prior to the expiration of the original term.

3. **RENTAL AND DEPOSIT:**

- a. The rent for the Demised Premises shall be in the amount of **Fourteen Thousand Five Hundred dollars (\$14,500)** per month with base rent escalation of 3% per year. Lessee shall pay the first month's rental payment upon execution of the Lease. In the event the Lessee exercises the option to extend, the monthly rental amount shall be automatically adjusted as of January 1, 2029, with annual rent escalations of three percent (3%), or Bureau of Labor Statistics Consumer Price Index for the San Francisco Area, whichever is greater.
- b. Lessee shall also pay a deposit equal to the first month's rent as security for Lessee's faithful performance of its obligations under the Lease ("Security Deposit,") due upon execution of the Lease. If Lessee fails to pay rent, or otherwise defaults under this Lease, Lessor may use, apply, or retain all or any portion of the Security Deposit for the payment of any amount already due Lessor for rents which will be due in the future, and/or to reimburse or compensate Lessee for any liability, expense, loss, or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within ten (10) days after written request therefore deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. Within ninety (90) days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall not be required to keep the Security Deposit separate from its general accounts. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

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4. **PROCEDURE FOR PAYMENT:** It is understood and agreed that Lessee shall complete and file a regular Napa County claim for each monthly installment as the same becomes due and payable hereunder for processing in the manner required by the Napa County Auditor.

5. <u>FURNISHINGS, FIXTURES AND EQUIPMENT FURNISHED BY LESSOR:</u>

- a. <u>Heating, Lighting, Water, and Electrical Service</u>: It is understood and agreed that Lessor will provide satisfactory and adequate heating, lighting, air conditioning, water, and electrical service facilities for the Demised Premises. Lessor agrees to maintain such facilities in reasonably good working order, repair, and operation during the term of this Lease.
 - b. <u>Payment of Utility Bills and Services</u>: Utility services shall be paid for as follows:
- 1. <u>Water and Sewer Service</u>. Lessee shall be responsible for the cost of furnishing water to the Demised Premises for normal office use and shall pay all sewer charges.
- 2. <u>Gas and Electricity Service.</u> Lessee shall pay for all gas and electricity furnished to the Demised Premises.
- c. <u>Taxes</u>: Lessor shall pay all City, County, State, or Federal taxes of any type whatsoever relating to the Demised Premises, the building which the Demised Premises are contained within, and appurtenances thereto.
 - d. <u>Custodial and Garbage Service</u>.
 - 1. <u>Custodial Service</u>. Lessee shall pay for custodial services.
 - 2. Garbage Service. Lessee shall pay for garbage service.
- 6. <u>USE OF LEASED PREMISES</u>: Lessee will use the Demised Premises for the conduct and operation of County business or any other lawful purpose of Lessee, including but not limited to the intent as of the date of execution of this Agreement to use the Demised Premises to house the programs listed in Paragraph 1. Lessor shall provide Lessee access to the Demised Premises 24 hours per day, 365 days per year. The Lessee may not do, bring, or keep anything in or about the Demised Premises that will cause an increased premium for or the cancellation of any of the Lessor's insurance covering the Demised Premises. If the Lessee does cause any such increase in insurance premiums, the Lessee shall pay or reimburse Lessor for the entire amount thereof, without regard to whether Lessor elects to terminate this Agreement as a result of Lessee's unauthorized use of the Demised Premises.
- a. <u>Hazardous Substances</u>. Lessee shall not generate, handle, store, or dispose of any Hazardous Substance on, under, or in the Demised Premises or on the real property upon which the Demised Premises are situated. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material, which is or becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup. Lessee agrees to hold harmless, protect, indemnify, and defend Lessor from and against any damage, loss, claim, or liability resulting from any breach of this covenant, including any attorneys' fees and costs incurred. This indemnity will survive

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the termination of this Agreement, whether by expiration of the Term or otherwise.

- 7. <u>ALTERATIONS</u>: Lessee shall not alter, change, or modify the Demised Premises in any manner or permit any alterations without the written consent of Lessor except for nonstructural alterations to the interior of the Demised Premises, which Lessee requires in order to conduct its business on the Demised Premises, for which prior consent of the Lessor shall be required. For the purpose of this Paragraph, all interior walls shall be considered structural improvements. In either event, any alteration or additions shall become the property of Lessor with the exception of personal property that can be removed without injury to the Demised Premises, which shall remain the property of Lessee.
- 8. <u>ASSIGNMENT</u>: Lessee shall not assign or encumber its interest in this lease or sublet to anyone, other than the Napa County Fire Department, without prior written consent of Lessor, which the Lessor may withhold at its sole and absolute discretion. Any assignment, encumbrance, or sublease without Lessor's consent shall be voidable and, at Lessor's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this Paragraph.
- 9. MAINTENANCE: Lessor agrees to maintain in good condition the exterior of the Demised Premises, including walls, roof, glass windows, paving, walks, and halls. Lessor agrees to provide and properly care for and maintain all walkways and all grounds landscaping. Lessee shall be responsible for interior maintenance, including plumbing blockages due to Lessee use, janitorial requirements, light bulb replacements, and overloaded electrical circuits. Lessee agrees to maintain the interior of the Demised Premises in good condition and repair, subject to reasonable use and wear thereof. Excluding any major repairs to the Demised Premises caused by the Lessee's excessive wear and tear, intentional acts, or acts of negligence, all major repairs shall be covered by the Lessor. For the purpose of this Agreement, "major repairs" are those repairs to the Demised Premises that would cost the County of Napa \$5,000 or more, including the payment of prevailing wage, regardless of whether Lessor is required to pay such wages.
- 10. <u>LEASEE'S REMEDIES:</u> Lessor shall have 30 days after notice from Lessee to commence to perform its obligations under paragraphs 5 and 9, except that Lessor shall perform its obligations immediately if the nature of the problems presents a hazard or emergency or renders the Demised Premises uninhabitable. If Lessor does not perform its obligations within the time limitations in this Paragraph, Lessee shall notify Lessor of its default of this Agreement, and Lessor shall have five (5) days to commence repairs. If Lessor does not commence repairs within said five (5) days from default notice, Lessee may perform the obligations and be reimbursed by Lessor for the sum Lessee actually expends in the performance of Lessor's obligations. If Lessor does not reimburse Lessee within 30 days after demand from Lessee, Lessee shall have the right to withhold from future rent due the sum Lessee has expended until Lessee is reimbursed in full.

11. HOLD HARMLESS AND INSURANCE:

a. <u>Hold Harmless.</u> Lessee shall hold Lessor harmless from all damages arising out of damage to any person or property occurring in, on, or about the Demised Premises, except that Lessor shall hold harmless Lessee for any damage resulting from the acts or omissions of Lessor or its authorized representatives.

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- b. <u>Liability Insurance</u>. Lessor and Lessee each agree to maintain general liability insurance in the amount of one million dollars (\$1,000,000) during the term of this Agreement covering liability for acts or omissions by each respective party or its officers, agents or employees in relation to the portions of the Demised Premises then being leased which cause personal injury (including death) or property damage to any person. Notwithstanding the foregoing, Lessor recognizes that Lessee is self-insured for general liability up to \$300,000 and agrees that such self-insurance satisfies Lessee's obligations under this subsection up to that amount. Upon written request from Lessor, Lessee shall name Lessor as an additional insured and provide a Certificate of Coverage for the insurance coverage obtained by Lessee above this self-insurance amount.
- 12. COUNTY REAL PROPERTY LEASE ANNUAL INSPECTION: Lessee's Public Works Property Management Division staff ("Division staff") shall have unobstructed access to the Demised Premises for visual observation and non-intrusive physical examination of the subject areas during annual walk-through inspections. The intent of the annual inspection is to identify major health and safety concerns in locations leased from external entities where Lessee provides public service, living environments, or work environments. Division staff will contact Lessee to arrange a mutually agreeable date and time for the annual inspection. If conditions are identified during the annual inspection that would threaten the health and safety of Lessee's staff or any members of the public, and those conditions are within the responsibilities of the Lessor under this Lease, Division staff will report said deficiencies to Lessor within five (5) business days of the date of the annual inspection. The report will specifically identify the deficiencies and establish a reasonable time frame for Lessor to cure the deficiencies. The time frame for Lessor to cure deficiencies shall be reasonable and will reflect the seriousness of the issues identified and the impact to Lessee's programs.

13. **DESTRUCTION:**

- a. <u>If Repairable.</u> If, during the term of the Agreement, the then-leased portions of the Demised Premises are totally or partially destroyed from any cause, rendering the Demised Premises totally or partially inaccessible or unusable, Lessor shall restore the Demised Premises to substantially the same condition as they were in immediately before the destruction if the restoration can be made under the existing laws and can be completed within 90 working days after the date of the destruction. In the event of such timely restoration, the destruction shall not terminate this lease.
- b. <u>If Not Timely Repairable</u>. If the restoration cannot be made in the time stated in (a), above, then within sixty (60) days after the parties determine that the restoration cannot be made in the time stated in this paragraph, Lessee may terminate this Agreement immediately by giving notice to Lessor. If Lessee fails to terminate this Agreement and if restoration is permitted under the existing laws, Lessor, at its election, may either terminate this Agreement or restore the Demised Premises within a reasonable time and this Agreement shall continue in full force and effect. If the existing laws do not permit the restoration, either party may terminate this Agreement immediately by giving written notice to the other party.
- 14. **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

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on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

LESSEE: Napa County Fire Department

Attn: Fire Administration

1195 3RD Street Suite 310 Napa, California 94559

LESSOR: H4IT Napa LLC.

226 Riviera Cir Larkspur, CA 94939

- CANCELLATION: If funds to meet the obligations under this Agreement were granted or contracted to Lessee by any agency of the State of California, any federal government agency, or other source, and such funds are reduced, discontinued, or otherwise become unavailable to Lessor during the term of the Agreement or any extension thereof Lessee shall have the right to terminate this Agreement by giving Lessor written notice of such termination at least thirty (30) days prior to the effective date of the termination. The notice of termination shall include a certification by the Napa County Executive Officer or designee thereof that sufficient funds have not been made available to Lessee to meet Lessee's future obligations under the Agreement. In the event of termination under this Agreement, Lessee shall not enter into a functionally similar agreement with a third party during the remainder of the then-current term, except that if during said period, funds again become available to Lessee, Lessee shall offer to execute a new agreement with Lessor to expire no earlier than the expiration date of this Agreement had it not been terminated under this Paragraph, and on the same terms and conditions as set forth in this Agreement. Lessor shall have the right to cancel this Agreement by giving sixty (60) days prior written notice delivered to the Lessee of such cancellation.
- 16. **DEFAULT:** If Lessee defaults in the payment of rent or in the performance of any of the other covenants or conditions of this Agreement, Lessor shall give Lessee notice of such default, and if Lessee does not cure such default within ten (10) days after the giving of such notice, then Lessor may either terminate this Agreement forthwith or continue this Agreement in full force and effect for such time as Lessor specifies by written notice to Lessee. Upon Lessor's election to terminate this Agreement due to default by Lessee, Lessee shall immediately quit and surrender the leased premises to Lessor. If this Agreement is terminated by Lessor for such default, Lessor may at any time thereafter resume possession of the leased premises by any lawful means, remove Lessee or other occupants and their effects, and accelerate all rent payments due hereunder which payments will then become immediately due and payable, or pursue any other remedy allowed by law. Lessee shall pay Lessor the costs of recovering possession of the Demised Premises, the expenses of reletting, and any other costs or damages arising out of Lessee's default. Notwithstanding any re-entry or termination, Lessee will remain liable for all sums Lessee is obligated to pay hereunder until the Demised Premises are re-let and a new lessee takes possession, or for the balance of the current lease term, whichever occurs first, and Lessee shall compensate Lessor for any deficiency arising from reletting the Demised Premises, provided, however, that Lessor shall use reasonable efforts to mitigate its damages.
- 17. SURRENDER OF LEASED PREMISES UPON EXPIRATION OF LEASE AND HOLD OVER: Upon expiration of this Agreement or termination thereof in relation to any portion of the leased premises in any lawful manner, Lessee shall surrender and deliver up the portion of the leased

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premises so affected, along with all related fixtures and furnishings provided by Lessor in as good order and condition as the same were upon the date of commencement of this Agreement, or in which they may have been put in compliance with the provisions of this Agreement during the term or any renewals or extensions thereof, reasonable wear, tear, and use excepted. If Lessee, with Lessor's consent, remains in possession of such portion of the leased premises after such expiration or termination of the lease relating thereto under this Agreement, such continued possession by Lessee shall be deemed to be a month-to-month tenancy terminable on 30 days written notice given at any time by either party. All provisions of this Agreement shall apply to such holdover month-to-month tenancy except for those relating to normal expiration date for Space A, except that rent shall be one hundred fifty percent (150%) of rent payable immediately preceding the termination date.

- 18. **TIME OF ESSENCE:** Time is of the essence of each provision of this Agreement.
- 19. <u>INTERPRETATION OF LEASE</u>: This Agreement shall be construed and interpreted in accordance with the laws of the State of California.
- 20. <u>INTEGRATED AGREEMENT</u>: This Agreement contains all the agreements of the parties and cannot be amended or modified except by a written amendment mutually agreed to by the parties.
- 21. **SEVERABILITY:** The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.
- 22. **WAIVER:** The waiver by either party of any provision of this Agreement at any time shall not be deemed to constitute any future waiver. Either party may strictly enforce the provisions of this Agreement at any time, irrespective of past conduct.
- 23. **ESTOPPEL CERTIFICATES:** Each party, within ten (10) business days of receipt of a request from the other party, shall execute and deliver to the other party, in recordable form, a certificate stating that this Agreement is unmodified and in full force and effect, or, if modified, stating the modifications. The certificate shall also state the amount of rent, the dates to which amounts due hereunder have been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the ten (10) business days shall be conclusive upon the party failing to deliver the certificate, that this Agreement is in full force and effect, has not been modified except as may be represented by the party requesting the certificate and that no prepayments of rent have been made. If a party fails to deliver the certificate within the ten (10) business days, then the party failing to deliver the certificate irrevocably constitutes and appoints the other party as its special attorney-infact to execute and deliver the certificate to any third party.
- 24. **SUBORDINATION:** Lessor shall have the right to subordinate this Agreement and the leases provided for herein to any ground lease, deed of trust, or mortgage encumbering the leased premises, any advances made on the security thereof, and any renewals, modifications, consolidations, replacements, or extensions thereof, whenever made or recorded. Lessee shall cooperate with Lessor and any lender which is acquiring a security interest in the leased premises or the Agreement, and Lessee agrees to execute and deliver to Lessor, without cost, within ten (10) days following Lessor's written request, any instrument that may be necessary to further effect the subordination of this Agreement and the leases provided for herein. Lessee shall execute such further documents and assurances as such lender may require, provided that Lessee's obligations under this Agreement shall not be increased in any material way (the performance of ministerial acts shall not be deemed

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material), and Lessee shall not be deprived of its rights under this Agreement. Lessee's right to quiet possession of the leased premises during the lease terms shall not be disturbed if Lessee pays the rent and performs all of Lessee's obligations under this Agreement and is not otherwise in default. If any ground lessor, beneficiary or mortgagee elects to have this Agreement and the leases provided for herein prior to the lien of its ground lease, deed of trust or mortgage and gives written notice thereof to Lessee, this Agreement shall be deemed prior to such ground lease, deed of trust or mortgage whether this Agreement is dated prior or subsequent to the date of said ground lease, deed of trust or mortgage or the date of recording thereof.

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Doc. No. 103767 11/21/2023

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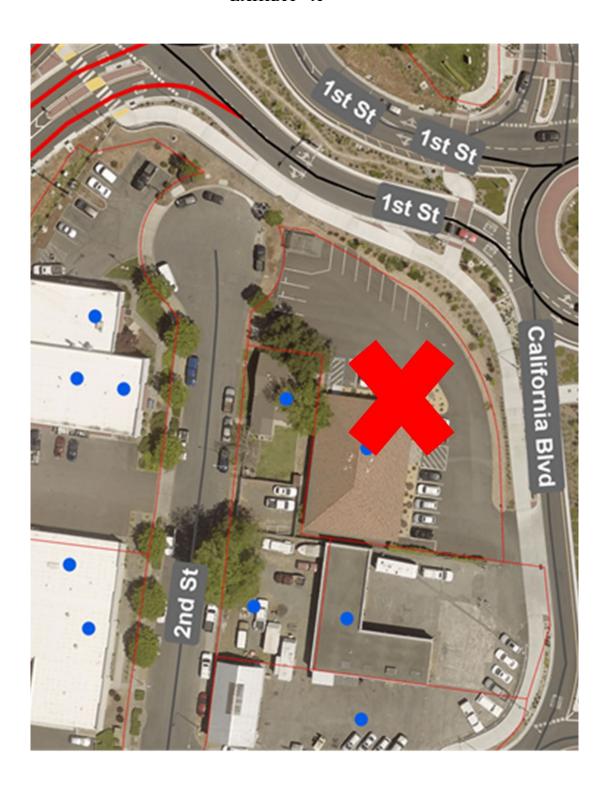
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

By agent:	
DocuSigned by:	
BY: Inne tennely	
Name 495E723805C456	
"LESSOR"	
COUNTY OF NAPA, a political subdivision of the Sta	te
of California	
BY:	
BELIA RAMOS, Chair of the	
Board of Supervis	
"LESSEE"	

H4IT Napa LLC, a California Limited Partnership

APPROVED AS TO FORM	APPROVED BY THE NAPA	ATTEST: NEHA HOSKINS
Office of County Counsel	COUNTY	Clerk of the Board of Supervisors
CI . A 2 10 1	BOARD OF SUPERVISORS	
By: Shana A. Bayley		
Deputy County Counsel	Date:	By:
Data: 11/28/23	Processed By:	, , , , , , , , , , , , , , , , , , , ,
Date: 11/28(23		
	54	-
	Deputy Clerk of the Board	
	-	

EXHIBIT "A"





DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code) (C.A.R. Form AD, Revised 12/21)

(If checked) This form is being provided in connection with a transaction for a leasehold interest exceeding one year as per Civil Code section 2079.13(j), (k), and (l).

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salespersons and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation.

Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE SECOND PAGE.

☐ Buyer ☐ Seller ☐ Landlord 🗶 Tenant	ŧ	County of Napa Date
Buyer Seller Landlord Tenant		Date
Agent	WRE Napa, Inc.	DRE Lic. # <u>02226490</u>
	Real Estate Broker (Firm)	
By	Michael Holcomb	DRE Lic. # <u>01458995</u> Date
(Salesperson or B	roker-Associate, if any)	

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AD REVISED 12/21 (PAGE 1 OF 2)



951 California

CIVIL CODE SECTIONS 2079.13 – 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. (b) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. (c) "Commercial real property" means all real property in the state, except (1) single-family residential real property. (2) dwelling units made subject to Chapter 2 (commencing with section 1940) of Title 5, (3) a mobilehome, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. (d) "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. (e) "Listing agreement" means a person who hose batained a listing of real property to act as an agent for compensation. (g) "Listing proce" is the amount express CIVIL CODE SECTIONS 2079.13 - 2079.24 (2079.16 APPEARS ON THE FRONT) seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. (I) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. (m) "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. (n) "Buyer's agent" means an agent who represents a buyer in a real property transaction.

2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: (a) The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. (b) The buyer's agent shall provide the disclosure form to the buyer of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer. from the buyer. 2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal. 2079.16 Reproduced on Page 1 of this AD form. 2079.17(a) As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. (b) As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller's agent prior to or coincident with the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the contract but the contract. with the execution of that contract by the seller. CONFIRMATION: (c) The confirmation required by subdivisions (a) and (b) shall be in the following form:

the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell

CO	VI II (WIATION. (C) THE COMMITTEE			•	The same of the sa
	Seller's Brokerage Firm		T COMPLETE. SAMPLE O		License Number
	Is the broker of (check one):	the seller; or	both the buyer and seller.	(dual agent)	
	Seller's Agent	DO NO	T COMPLETE, SAMPLE OF	NLY	License Number
	Is (check one): the Seller's	Agent. (salespers	son or broker associate)	both the Buyer's and Seller's Age	nt. (dual agent)
	Buver's Brokerage Firm	DO NO	T COMPLETE. SAMPLE O	NLY	License Number
	Is the broker of (check one):	the buyer; or	both the buyer and seller.	(dual agent)	
	Ruver's Agent	DO NO	T COMPLETE, SAMPLE OF	NLY	License Number
	la (aback ana): The Buyer's	Agent. (salespers	son or broker associate)	both the Buyer's and Seller's Age	nt. (dual agent)
(d)	The disclosures and confirmation	n required by this	section shall be in addition t	o the disclosure required by Section	on 2079.14. An agent's duty to provide

disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker. 2079.18 (Repealed pursuant to AB-1289) 2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.
2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.
2079.21 (a) A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. (b) A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. (c) "Confidential information" means facts relating to the client's financial position, motivations bargaining position or other personal information that may

"Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered.

(d) This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented

by an agent, that does not, of itself, make that agent a dual agent.

2079.23 A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of

the act which is the object of the agency with the written consent of the parties to the agency relationship.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees.

subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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AD REVISED 12/21 (PAGE 2 OF 2)





CALIFORNIA CONSUMER PRIVACY ACT ADVISORY, DISCLOSURE AND NOTICE

(C.A.R. Form CCPA, Revised 12/22)

The California Consumer Privacy Act (commencing with Civil Code § 1798.100) ("CCPA"), as amended by California voters in 2020, grants to California residents certain rights in their private, personal information ("PI") that is collected by companies with whom they do business. Under the CCPA, PI is defined broadly to encompass non-public records information that could reasonably be linked directly or indirectly to you. PI could potentially include photographs of, or sales information about, your property.

During the process of buying and selling real estate your PI will be collected and likely shared with others, including real estate licensees, a Multiple Listing Service, real estate internet websites, service providers, lenders, and title and escrow companies, to name several possibilities. Businesses that are covered by the CCPA are required to grant you various rights in your PI, including the right to know what PI is collected, the right to know what PI is sold or shared and to whom, the right to request that the business correct or delete your PI, the right to "opt out" or stop the transfer of your PI to others, and the right to limit the use of certain PI which is considered "sensitive." You may get one or more notices regarding your CCPA rights from businesses you interact with in a real estate transaction. However, not all businesses that receive or share your PI are obligated to comply with the CCPA. Moreover, businesses that are otherwise covered under the CCPA may have a legal obligation to maintain PI, notwithstanding your instruction to the contrary. For instance, regardless of whether they are covered by CCPA, under California law, brokers and Multiple Listing Services are required to maintain their records for 3 years. If you wish to exercise your rights under CCPA, where applicable, you should contact the respective business directly.

You can obtain more information about the CCPA and your rights under the law from the State of California Department of Justice (oag.ca.gov/privacy/ccpa). Additionally, the California Privacy Protection Agency is authorized to promulgate regulations which may further clarify requirements of the CCPA (cppa.ca.gov/regulations/).

I/we acknowledge receipt of a copy of this California Consumer Privacy Act Advisory, Disclosure and Notice.			
Buyer/Seller/Landlord/Tenant	Date		
County of Napa			
Buyer/Seller/Landlord/Tenant	Date		

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CCPA REVISED 12/22 (PAGE 1 OF 1)



REPRESENTATIVE CAPACITY SIGNATURE DISCLOSURE (FOR TENANT REPRESENTATIVES)

(C.A.R. Form RCSD-T, Revised 6/23)

This form is not an assignment. It should not be used to add new parties after a contract has of this form is to identify who the principal is in the transaction and who has authority to sign principal.	documents on benair of the
The disclosure in this form supersedes any Legally Authorized Signer representation or Repre Disclosure made in the Agreement specified below or on a separate form.	_
This is a disclosure to the Residential Lease or Month-to-Month, OR Tenant Represent Napa County Lease Agreement County of Napa.	ation Agreement, X Other ("Agreement")
in which County of Napa,	_ is identified as ("Tenant").
If a trust, identify Tenant as the trustee(s) of the trust or by simplified trust name (ex. John co-trustee or Doe Revocable Family Trust 3.) Full name of trust should be identified in 1A below principal's name as Tenant. 1. A. TRUST: (1) Assets used to lease the Property are held in trust pursuant to a trust document, title	v. If power of attorney, insert
(2) The person(s) signing below is/are Sole/Co/Successor Trustee(s) of the Trust. B. POWER OF ATTORNEY: Tenant ("Principal") has authorized the person(s) signin "Power of Attorney" or "POA") to act on his/her behalf pursuant to a General Power of A Attorney for the Property), dated This form is not a Power of Attorney for the Property), dated This form is not a Power of Attorney for the Property), dated This form is not a Power of Attorney for the Property), dated This form is not a Power of Attorney for the Power of Attorney for its used. C. ENTITY: Tenant is a Corporation, Limited Liability Company, Partnership which has authorized the officer(s), managing member(s), partner(s) or person(s) signing An authorizing resolution of the applicable body of the entity described above is is D CONSERVATORSHIP/GUARDIANSHIP: (1) Tenant is a conservatorship or guardianship identified by Superior Court Case na (2) The person(s) signing below is/are court approved representatives (whether Co-Conservator, Guardian) of the entity described in paragraph 1D(1). 2. Tenant's Representative represents that the trust, entity, power of attorney, or estate, conservators which that Party is acting already exists.	rney. A Power of Attorney Other: ng below to act on its behalf. not attached. me as , Case # er designated as Sole or
	Date:
By(Sign Name of Trustee, Officer, Managing Member, Partner, Attorney-in-Fact or Administrato	r/Executor)
(Sign Name of Trustee, Office), Managing Member, Farther, Author, Markey (Print Representative Name) Belia Ramos Title: Chain	Board of Supervisors
Ву	Date:
By(Sign Name of Trustee, Officer, Managing Member, Partner, Attorney-in-Fact or Administrator (Print Representative Name) Title:	r/Executor)
Acknowledgement of Receipt By Other Party:	
Housing Provider/Broker/Other	Date:
Housing Provider/Broker/Other	Date:
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RCSD-T REVISED 6/23 (PAGE 1 OF 1) Date: 1/29/2	S GROOTUNITY
REPRESENTATIVE CAPACITY SIGNATURE DISCLOSURE (RCSD-T PAG	E 1 OF 1)
WRE Napa, Inc., 1700 Soscol Avenue Suite 3 Napa CA 94559 Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St. Suite 2200, Dallas, TX 75201 www.	2262339 951 California



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1915

TO: Board of Supervisors

FROM: Jason Martin, Deputy County Fire Chief

REPORT BY: Stacie McCambridge, Staff Services Manager

SUBJECT: Budget Adjustment for Purchase of Communication Package for new B1407 &

C1404

RECOMMENDATION

Deputy County Fire Chief requests the following actions regarding purchasing communication equipment for a Chief's vehicle and utility pickup in the fire prevention fleet (4/5 vote required):

- 1. Approval of a Budget Amendment to increase transfer out of \$6,400 from Fire Operations (2100000-57900) using available fund balance to be transferred to the subdivisions of Fire Marshal (2100001-49900) and Fire Operations (2100000-49900); and an increase to Capital Asset appropriations in (2100001-55400) offset by transfer of revenue; and
- 2. Increase of capital assets in the amount of \$6,400 for the purchase of emergency communication equipment in new B1407 truck and C1404 Tahoe.

EXECUTIVE SUMMARY

County Fire is requesting authorization to increase appropriations in the Fire Marshal's (2100001-55400) and Fire Operations subdivision (2100000-55400) increasing the cost of capital assets. This request is due to an unforeseen rise in cost of Board-approved capital assets.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? No

Where is it budgeted? Fire Protection Budget Unit (2100). This request will increase

appropriations in the Fire Operations and Fire Marshal

subdivisions with an offsetting reduction in the available Fire Fund

balance.

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1915
Is it Mandatory or Discretionary?	Discretionary	
Discretionary Justification:	The cost increase is to the communication equipment to be installed in the new capital assets, a pickup and Tahoe. Equipment is needed to operate in an emergency capacity.	
Is the general fund affected?	No	
Future fiscal impact:	The cost of repairs and updates would be s Protection Fund (2100).	supported by the Fire
Consequences if not approved:	The vehicles would not be outfitted proper emergency situations.	rly and be under used for
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Li	ve, Work, and Visit

ENVIRONMENTAL IMPACT

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

BACKGROUND AND DISCUSSION

Staff requests approving a budget adjustment to enable purchasing of communication equipment increasing appropriations by \$6,400 from Fire Operations (2100000-57900) using available fund balance to be transferred to the Fire Operations (2100000-49900 and Fire Marshal (2100001-49900) subdivisions; and an increase to Capital Asset appropriations (in 2100000 and 2100001-55400) offset by transfer of revenue.

In June of 2021, the Board adopted the Fiscal Year 2021-2022 Fire Budget, which included a new 2022 Chevrolet Tahoe and a Chevrolet 2500 pickup truck. On February 8, 2023, Purchase Order 23001933 (\$16,686.33) & 23001935 (\$21,553.77) were cut for the communications element of the vehicles. This includes lights, sirens, control system and radio consoles. Due to an unforeseen rise in costs and the vendor's production schedule, the communications element (lighting, siren, control systems, radios, etc.) has increased for each vehicle. Vehicle B1407 increased by \$5,500, for a new total of \$27,054, and vehicle C1404 increased by \$900, for a new total of \$17,586.33.



1195 Third Street Suite 310 Napa, CA 94559 www.countyofnapa.org

Main: (707) 253-4421 Fax: (707) 253-4176

Ryan J. Alsop County Executive Officer

MEMORANDUM

То:	Board of Supervisors	From:	Daniel Sanchez, Senior Management Analyst
Date:	December 5, 2023	Re:	6 C – CONSENT CALENDAR

Revising the following Recommendation: Executive Summary and Background and Discussion to:

RECOMMENATION:

Deputy County Fire Chief requests the following actions regarding purchasing communication equipment for a Chief's vehicle and utility pickup in the fire prevention fleet (4/5 vote required):

- 1. Approval of a Budget Amendment to increase transfer out of \$5,500 from Fire Marshal (2100001-57900) using available fund balance to be transferred to the subdivision of Fire Marshal (2100001-55400) and to subdivision Fire Operations (2100000-55400); and
- 2. Increase of capital assets in the amount of \$6,400 for the purchase of emergency communication equipment in new B1407 truck and C1404 Tahoe.

EXECUTIVE SUMMARY:

County Fire is requesting authorization to increase appropriations in the Fire Marshal (2100001-55400) and Fire Operations (2100000-55400) and increasing the cost of capital assets. This request is due to an unforeseen rise in the cost of Board approved capital assets.

BACKGROUND AND DISUCSSION:

Staff requests approving a budget amendment to enable purchasing of communication equipment increasing appropriations by increase transfer out of \$5,500 from Fire Marshal (2100001-57900) using

available fund balance to be transferred to the subdivision of Fire Marshal (2100001-55400) and to subdivision Fire Operations (2100000-55400).

In June 2021, the Board adopted Fiscal Year 2021-22 Fire Budget, which included a new 2022 Chevrolet Tahoe and a Chevrolet 2500 pick truck. On February 8, 2023, Purchase Order 23001933 (\$16,686) and 23001935 (\$21,533) were cut for the communications element of the vehicles. This includes lights, sirens, control systems and radio consoles. Due to an unforeseen rise in the cost and the vendors production schedule, the communications element (light, sirens, control systems, radios, etc.) has increased for each vehicle. Vehicle B1407 increased by \$5,500 for a new total of \$27,054 and vehicle C1404 increased by \$900 for a new total of \$17,586.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1596

TO: Board of Supervisors

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

REPORT BY: Gaby Angeles, Staff Services Analyst II

SUBJECT: Adoption of a Resolution for Drug Diversion Requirements and Agreement No.

240141B with Alternatives for Better Living, Inc.

RECOMMENDATION

Director of Health and Human Services Agency (HHSA) requests:

- 1. Adoption of a Resolution authorizing the Director of HHSA to take actions in regard to drug diversion program and standards; and
- 2. Approval of and authorization for the Chair to sign Agreement No. 240141B with Alternatives for Better Living, Inc., for a contract maximum of \$50,000 for Fiscal Year 2023-2024, and each subsequent renewal, to provide Penal Code 1000 (PC 1000) drug diversion services.

EXECUTIVE SUMMARY

Approval of today's actions will designate Director of HHSA to act on behalf of the County in maintaining criteria for drug diversion programs pursuant to PC 1000 and will allow the County to enter into an agreement with Alternatives for Better Living, Inc., for the provision of PC 1000 drug diversion program services that are required by law.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? Yes

Where is it budgeted? Health & Human Services, Behavioral Health division

Is it Mandatory or Discretionary? Mandatory

Is the general fund affected? No

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1596
Future fiscal impact:	This agreement contains a provision for automatic annual renewal. Appropriations have been included in the approved Fiscal Year 2023-2024 budget and future fiscal years will be budgeted accordingly	
Consequences if not approved:	If this agreement is not approved, Napa County will not have a provider for PC 1000 drug diversion services, as required by law.	
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place t	o 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

As to the first part of this Board item, Section 51211 of the Penal Code requires the availability of drug diversion programs in each county with minimum requirements, criteria, and fees for drug diversion programs, in order to ensure for the quality of such programs. Certification standards were previously approved by this Board of Supervisors in 2003. The resolution brought before the Board today will instead allow Director of HHSA to continue maintaining minimum requirements, criteria and fees for these drug diversion programs, including the certification of drug diversion program providers.

With respect to the requested contract, for context, Alternatives for Better Living, Inc. (Alternatives) has been the approved Napa County PC 1000 (i.e., drug diversion program) provider since June 2005. In that capacity, they work closely with the Napa County Superior Court in the referral, coordination, and workflows associated with this court-ordered program.

Alternatives recently began sustaining losses due to client inability to pay and attrition that has implications for fixed and administrative costs associated with operating this program. For further context, there is a dearth of treatment providers who are interested and able to operate this program, which is unique in that it also requires a significant amount of administrative support in managing referrals, workflows, and communication with the courts. HHSA staff worked with Alternatives and the courts to help ensure that this contract is put into place so that Napa County remains in compliance with State requirements. Alternatives has an established relationship with the courts and existing clients and is the current provider of the County's driving under the influence (DUI) program requirements.

Alternatives for Better Living, Inc., is a local provider.

RESOI	LUTION	NO.
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RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AUTHORIZING THE DIRECTOR OF HEALTH AND HUMAN SERVICES AGENCY TO ESTABLISH MINIMUM REQUIREMENTS, CRITERIA AND FEES FOR THE DRUG DIVERSION PROGRAM AND CERTIFYING THE DRUG DIVERSION PROGRAM PROVIDER

WHEREAS, the county drug and alcohol administrator shall establish minimum requirements, criteria, and fees, in consultation with representatives of the court and county probation department, for the completion of the drug diversion programs pursuant to Chapter 1.5 (commencing with Section 1211) of Title 8; and

WHEREAS, referrals for pretrial diversion programs granted by the court shall only be made to programs certified by the county drug program administrator pursuant to Chapter 2.5 (commencing with Section 1000 (4)(c).

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors as follows:

1. That the Director of Health and Human Services Agency, is hereby authorized and directed to act on behalf of County in establishing minimum requirements, criteria, and fees for the drug diversion program and certifying the drug diversion program providers.

[remainder of page intentionally left blank]

	oard of S	Supervisors, St	tate of California, at a	REGULARLY ADOPTED regular meeting of the Board he following vote:
AYES:	SUPER	VISORS		
NOES:	SUPER	VISORS		
ABSTAIN:	SUPER	VISORS		
ABSENT:	SUPER	VISORS		
			NAPA COUNTY, a the State of Californi	political subdivision of a
		By:		
		By.	BELIA RAMOS, Ch Board of Supervisors	air of the
APPROVED AS TO FO Office of County Cour	nsel	NA	OVED BY THE PA COUNTY OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: Rachel L. Ross (e-signa	ture)	Date:		By:
Deputy County Counsel Processed By:				
Date: 11-15-23		Deputy Clerk o	f the Board	

NAPA COUNTY AGREEMENT NO. 240141B PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the 1st day of July 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and **ALTERNATIVES FOR BETTER LIVING, INC.**, 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 Penal Code 1000 drug diversion services; 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.

NAPA COUNTY, a political subdivision of	CONTRACTOR
the State of California	
the State of Camorina	G:
	Signature
By	
BELIA RAMOS, Chair of the Board of Supervisors	JONI YACOE, President
ATTEREST. NEWA HOOKING OF A CALID. A	
ATTEST: NEHA HOSKINS, Clerk of the Board	Signature
	Significan
Ву:	
,	MILLIAM KDIMA D. 1CI.;
DATE APPROVED BY THE BOARD:	WILLIAM KRIMM, Board Chair
Processed by:	
Deputy	
Борилу	
Maximum Amount of this Agreement: \$50,000.00	APPROVED AS TO FORM BY NAPA COUNTY
Maximum Amount of this Agreement. \$50,000.00	COUNSEL
Term Expires: June 30, 2024	COCHULL
	-
Automatic renewal of term applies.	By: Rachel L. Ross (e-signature)
	Date: 9/19/2023

TERMS AND CONDITIONS OF NAPA COUNTY AGREEMENT NO. 240141B

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, 2nd 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: Joni Yacoe, 68 Coombs Street- Suite C1, Napa, CA 94559.
- 1.6 CONTRACTOR is a [] sole proprietor [] partnership [X] corporation [] public agency [] other (specify).
- 1.7 The source of funding for this Agreement shall be: HHSA General Funds.
- 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: N/A

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]Contact with vulnerable populations such as children, elderly, mentally ill or (a) disabled persons (General Terms and Conditions Paragraph 2.8(b) applies). Construction or pre-construction related services (General Terms and Conditions Paragraph 2.19(e) applies). 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). Services covered by a Federal Health Care Program (General Terms and [] Conditions Paragraph 2.31 applies). Services covered by a State Medi-Cal Specialty Mental Health Program (General [] Terms and Conditions Paragraph 2.32 applies). Mental Health Activities (General Terms and Conditions Paragraph 2.33 applies). [X](f) 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. [] 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. 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. 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.) 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] (I) 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 <u>Source Funding.</u>

- (a) <u>Change in Source Funding.</u> 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) <u>Amendment to Source Funding Agreement.</u> 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 <u>Statement of Economic Interests.</u> 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.

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 and Payment Schedule (attached)

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

EXHIBIT A SCOPE OF WORK

July 1, 2023 through June 30, 2024 (and each subsequent automatic renewal)

Introduction

California Penal Code (PC) sections 1000 through 1000.5 allows for defendants charged with certain drug possession violations to be granted by the court a deferred entry of judgment and referral to a drug diversion program. All referrals for drug diversion programs granted by the court shall be made only to programs that have been certified by the County Alcohol and Drug Services Program Administrator and approved by the County Board of Supervisors.

CONTRACTOR shall provide said services in CONTRACTOR'S separate programs as described herein; and locations as described herein.

Background

PC 1000 drug diversion program was originally offered in Napa County through the County's Drinking Driver Program. Section 51211 of the Penal Code promotes the expansion and availability of drug diversion programs in each county, as long as minimum requirements, criteria, and fees for the successful completion of drug diversion programs are established in order to ensure for the quality of such programs. Certification standards have been approved by the Napa County Board of Supervisors.

In June of 2005, Alternatives for Better Living submitted an application to be considered as a PC 1000 provider. Their application was reviewed by a committee that included the County Alcohol and Drug Administrator, Health and Human Services Agency fiscal and program staff, and a representative from the Court Ordered Recovery Programs Steering Committee. It was determined that Alternatives for Better Living met all certification standards and was recommended to the Board of Supervisors to be approved as a PC 1000 provider. Subsequently it was determined that current PC 1000 clients being served through the COUNTY'S Drinking and Driving Program should be transferred to Alternatives for Better Living in order to complete their PC 1000 obligation.

Program Description

CONTRACTOR shall accept referrals from the Court and/or Probation and ensure administration, operation, and maintenance of program services are provided, in accordance with current standards, as described and required per PC section 1211.

CONTRACTOR shall:

- 1. Oversee and provide administration of:
 - a. Processing of enrollments
 - b. Fee collection
 - c. Reporting to Probation and the Court
 - d. Required program services
 - e. Daily program operations and activities
- 2. Provide timely reporting on participant status to Probation and/or the Court.
- 3. Develop and maintain a policies and procedures manual for the operation of current PC 1000 Programming.
- 4. All Program staff shall review the manual at the time of employment or when the employer becomes qualified as a Program. A signed and dated certificate of review shall be placed in the personnel file of each employee assigned to the Program.
- 5. Develop and implement an in-house quality control procedure to ensure that Program resources are maximized and that participant and support services comply with these Standards.

Description of Program Requirements

Defendants eligible for the deferred entry of judgment and participation in a drug diversion program must meet the following conditions:

- 1. Have no conviction for any offense involving controlled substances prior to the alleged commission of the charged offense.
- 2. The offense charged did not involve a crime of violence or threatened violence.
- 3. No evidence of a violation relating to narcotics of restricted dangerous drugs other than a violation of possession identified in Penal Code section 1000 (a).
- 4. The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.
- 5. The defendant's record does not indicate that he or she has successfully completed or been terminated from diversion or deferred entry of judgment pursuant to this chapter within five years prior to the alleged commission of the charged offense.

6. The defendant has no prior felony conviction within five years prior to the alleged commission of the charged offense. Upon successful completion of a drug diversion program, the court shall dismiss the charge or charges against the defendant.

Client and Referral Requirements

- 1. Client must contact CONTRACTOR within 3 business days of your court referral.
- 2. If client fails to make contact within 3 business days, a 10-day letter will be issued. Client must then make contact within 10 business days in order to avoid termination.
- 3. If client does not make contact within the required time frame a termination will be issued to the court.
- 4. New and re-referred clients will be noted in the CONTRACTOR database as having made contact and referred to the approved PC 1000 Service Provider through a program referral form to be provided by the COUNTY.
- 5. Client shall be required to provide CONTRACTOR with proof of enrollment with approved PC 1000 Service Provider within 14 days of referral.
- 6. Client must provide proof of completion from approved PC 1000 Service Provider to CONTRACTOR within a year of enrollment.
- 7. Client must attend an exit interview to complete.
- 8. Client shall be terminated if they fail to enroll within the pre-determined timeline.
- 9. Client shall be terminated if they fail to provide proof of completion within a year of enrollment.
- 10. Client must provide referral to be re-referred/re-enrolled.

Services Provided

CONTRACTOR shall provide:

1. <u>Enrollment and Discharge:</u> Once the Court grants diversion, the defendant must contact the Program within the time designated by the Court to enroll and schedule an intake session. If the defendant does not contact the Program and complete enrollment within the designated

time, the Program shall promptly complete and forward to the Court or Probation a notice in a form approved by those agencies.

2. <u>Intake:</u> Before a participant receives services, the Program shall conduct an intake session and enroll the defendant in the Program. Upon enrollment, the defendant becomes a Program "Participant." Intakes shall be conducted according to each Program's policies and procedures, but subject to the requirements of these Standards.

Required Elements of the Intake Session. The topics covered and documented as a part of the intake session shall include the following:

- a. A description of the individual and group services to be provided to the Participant, including educational sessions, individual monitoring requirements, and group sessions.
- b. Attendance requirements and procedures for requesting a leave of absence.
- c. Program fees and payment schedules, including an assessment of the Participant's ability to pay such fees.
- d. Location and schedule of Program services.
- e. Requirements for successful completion of the Program.

Staffing Requirements – General

CONTRACTOR shall hire, train, and supervise staff to perform services under this agreement.

Substance Use Counselor/Case Manager

Program Performance Objectives

- 1. Goals
 - a. To reduce the public health costs of substance abuse within the Napa County community by providing evidence-based substance abuse services to qualifying non-violent first-time drug offenders.
 - b. To reduce drug abuse and criminal recidivism among PC 1000 drug diversion program participants who complete the program.

2. Objectives

- a. To increase participants' understanding of the addiction process and the diverse negative impacts associated with substance abuse.
- b. To create an environment that encourages positive changes in the participants'

attitudes and behavior that lead to a reduction in drug abuse, criminal activity and other costs to the community.

Contract Monitoring

COUNTY shall monitor CONTRACTOR's performance under this agreement to ensure the safety of individuals served, the appropriateness of services provided, their efficacy and effectiveness, and to protect against fiscal disallowances.

Monitoring Site Visits

This agreement contains provisions related to required objective service documentation standards, adherence to standards of care, client satisfaction levels, client outcomes, authorization processes and invoicing. Without limiting those provisions, COUNTY shall have the right to conduct one or more site visits to the CONTRACTOR's place of business to monitor performance under this agreement. COUNTY will normally provide CONTRACTOR with thirty (30) days or more prior notice of such site visits.

This notice shall include:

- 1. The specific monitoring tool(s) that will be utilized.
- 2. The preparation required of the CONTRACTOR prior to the monitoring visit. HHSA may require the provision of specific information in writing prior to the site visit to expedite the monitoring activities.
- 3. The information to be available for review at the time of the visit, which may include, among other things, individual service records, program policies and procedures, proof of licensure or certification, and documentation substantiating staff hours or other costs incurred by CONTRACTOR in providing the services being purchased.

As an outcome of the site visit, COUNTY shall provide CONTRACTOR with a preliminary monitoring report for review before it is finalized. This report shall contain a summary of information collected or reviewed; the evaluator's assessment, conclusions, and recommendations; and, any requirements or sanctions to be imposed on the CONTRACTOR, such as disallowances, recoupments, or requests for plans of action.

CONTRACTOR will have two (2) weeks to give notice of any disagreement with any of the findings and to present information supporting the provider's position. If appropriate, COUNTY may conduct additional monitoring activities to evaluate the CONTRACTOR's position.

COUNTY shall then finalize and issue its report. If the final report identifies material variations between CONTRACTOR's service activities and the standards required under this agreement, COUNTY may require CONTRACTOR to prepare a written plan of action to address those variations. COUNTY will also have such other remedies as are provided under this agreement.

Orientation, Training and Technical Assistance

COUNTY will endeavor to provide CONTRACTOR with training and support in the skills and competencies to (a) conduct, participate in, and sustain the performance levels called for in the contract and (b) conduct the quality management activities called for by the contract.

COUNTY shall provide CONTRACTOR with all applicable standards for the delivery and accurate documentation of services. COUNTY shall make ongoing technical assistance available in the form of direct consultation to the CONTRACTOR upon CONTRACTOR's request to the extent that COUNTY has capacity and capability to provide this assistance. In so doing COUNTY is not relieving CONTRACTOR of its duty to provide training and supervision to its staff or to ensure that its activities comply with applicable regulations and other requirements included in the terms and conditions of this agreement. Any requests for technical assistance by CONTRACTOR regarding any part of this agreement shall be directed to the COUNTY's designated contract monitor.

EXHIBIT B COMPENSATION AND PAYMENT SCHEDULE

July 1, 2023 through June 30, 2024 (and each subsequent automatic renewal)

Compensation

Contract Total not to exceed \$50,000 per fiscal year for the operation and administration of a deferred entry of judgment and pretrial diversion program that allows non-violent drug offenders to receive treatment and education in lieu of jail time, in alignment with PC section 1000.

Payment Rates

CONTRACTOR shall be paid for administration and program operation activities at the *Program Cost per Hour* listed in Table 1, not to exceed the annual contract maximum. CONTRACTOR shall continue to provide services throughout the end of the fiscal year, without expectation of reimbursement, in the event the contract maximum is reached prior to the end of the fiscal year.

TABLE 1: HOURLY PROGRAM REIMBURSEMENT RATE

Mental Health Rehab Specialist	\$60.55
Certified AOD Counselor	\$60.55
Other Qualified Providers - Other Designated MH Staff	\$60.55

Required Submissions

- 1. <u>Budget</u>. Fifteen days prior to the beginning of the Fiscal Year, or as requested, CONTRACTOR shall submit an estimated Budget consistent with the Fiscal Year contract maximum. CONTRACTOR shall include available overall capacity, capacity by classification of services, and availability of services (i.e., 24/7, 5 days/week, 7 days/week, and hours, if applicable). County may also request estimated FTEs, by standardized classification, and identify those providing Direct Client Care. The COUNTY shall supply a revised Budget Template and monthly invoice template which correlates to services, capacity utilization tracking, and standardized FTE professional classification fields.
- 2. <u>Invoices.</u> CONTRACTOR shall submit valid and accurate *Monthly* itemized invoices to COUNTY's Behavioral Health Fiscal Analyst by the *15th of each month* for all authorized contract services provided in the preceding *month*.

The invoice shall itemize all of the following for each billed service:

- i. Client name(s)
- ii. Program name

- iii. Description of service
- iv. Staff member who provided service
- v. Date of service
- vi. Invoice shall only include billing for the eligible contract services performed in the manner described herein.

Validity and accuracy of invoice submission is critical to ensure timely payment of invoices for contracted services. Invoices will be paid within 60 days of receipt of invoices that are <u>valid</u>, <u>accurate</u>, <u>and approved</u>. If COUNTY staff requires any invoice follow-up, clarification, adjustment, or resubmission from CONTRACTOR, the 60-day timeframe for invoice payment resets to the date all outstanding issues are resolved, and the most recently received invoice is confirmed to be valid and accurate.

3. <u>Annual Cost Report.</u> CONTRACTOR may be required to submit an annual cost report. If a cost report is required, CONTRACTOR will be notified, and the cost report will be due by August 31st following the end of the fiscal year. Failure to submit the cost report timely may result in the suspension of payments until the cost report is received by the COUNTY.

Other Limitations Affecting Payments

CONTRACTOR shall perform services and provide such documentation as required by all applicable State and Federal laws, rules, and regulations, and as described in Exhibit A of this agreement. Other limitations affecting contract payments may include, but are not limited to:

- 1. CONTRACTOR shall provide such documentation as required by COUNTY at any time in order to substantiate its claims for payment. COUNTY may elect to withhold payment for failure by CONTRACTOR to provide such documentation required by COUNTY.
- 2. Contractor's services and claims are subject to any audits conducted by COUNTY, the State of California or federal government, or other auditors. Any resulting audit exemption shall be repaid to COUNTY.
- 3. CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable State Program Requirements.

Non-compliance with this agreement may lead at any time to withholding of payments and/or a termination of the agreement based on breach of contract.

EXHIBIT C

SECTION 2. GENERAL TERMS AND CONDITIONS -- VERSION 12

2.1 **Term of the Agreement.**

- (a) <u>Term.</u> 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) <u>Automatic Renewal</u>. 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.
- Contraction (Contraction) (Con
- 2.2 **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A."

2.3 Compensation.

(a) <u>Compensation/Maximum</u>. 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. <u>Use of Funds.</u> 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) <u>Availability of Funds.</u> 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) <u>Invoices.</u> 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) <u>Legal status.</u> 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) <u>Workers' Compensation Insurance</u>. 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) <u>Liability Insurance.</u> 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) <u>General Liability.</u> 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) <u>Professional Liability/Errors and Omissions.</u> 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) <u>Comprehensive Automobile Liability Insurance.</u> 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) <u>Certificates of Coverage</u>. 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 <u>not</u> 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) <u>Deductibles/Retentions</u>. 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) <u>Inclusion in Subcontracts</u>. 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) <u>In General.</u> 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) <u>In General</u>. 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) <u>Provisions Adopted Automatically</u>. 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) <u>Waiver of Notice by CONTRACTOR.</u> 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) <u>Maintenance of Confidential Information.</u> 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) <u>Protection of Personally Identifiable Information and Protected Health</u> 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.
- (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) <u>HHSA Contractor Security Requirements.</u> Whenever CONTRACTOR utilizes their own equipment to perform work under this Agreement, CONTRACTOR warrants that they have reviewed "HHSA Contractor Security Requirements" and can adhere to the minimum standards at all time. A copy of "HHSA 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.

2.16 No Assignments or Subcontracts.

- (a) <u>In general.</u> 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) <u>Effect of Change in Status.</u> 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) <u>Interpretation.</u> 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) <u>Venue.</u> 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:
- Non-Discrimination. During the performance of this Agreement, (a) 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, 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) <u>Documentation of Right to Work</u>. 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) <u>Prevailing Wages</u>. If the services to be provided relate to construction or preconstruction-related services, including but not limited to testing, surveying, and inspection, then this Agreement includes the following provisions:
- (1) <u>Affected work.</u> 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) <u>Prevailing wages rates.</u> 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.
- 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) <u>Apprentices</u>. 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) <u>Inclusion in Subcontracts.</u> 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) <u>Covenant of No Undisclosed Conflict</u>. 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.countvofnapa.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.
- (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.
- (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) <u>Federal and other applicable law.</u> 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) <u>HIPAA Business Associate Agreement.</u> 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) <u>Use or Disclosure of Protected Health Information.</u> 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) <u>Subcontractors.</u> 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.
- (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 for such services.

2.37 Licensure Status.

- (a) <u>License in Good Standing.</u> 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) <u>Expiration of License.</u> 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.countvofnapa.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.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1601

TO: **Board of Supervisors**

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

REPORT BY: Gaby Angeles, Staff Services Analyst II

SUBJECT: Revenue Agreement No. 240177B with Department of Health Care Services

(Drug Medi-Cal Organized Delivery System)

RECOMMENDATION

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Revenue Agreement No. 240177B with Department of Health Care Services (DHCS) for a maximum of \$38,502,000 for the term Fiscal Year 2023-2024 through Fiscal Year 2026-2027 for the State and Federal funding for alcohol and drug programs approved in the Napa County Drug Medi-Cal Organized Delivery System (DMC-ODS) Waiver.

EXECUTIVE SUMMARY

Approval of today's action will allow the County to enter into an intergovernmental agreement with DHCS to identify and provide covered DMC-ODS services for substance use disorder (SUD) services for Napa County Medi-Cal beneficiaries through utilization of federal and state funds.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? Yes

Where is it budgeted? Health and Human Services Agency, Behavioral Health division

Is it Mandatory or Discretionary? Mandatory

Is the general fund affected? No

Future fiscal impact: This Agreement terminates on June 30, 2027. Appropriations have

been included in the approved Fiscal Year 2023-2024 budget and

future fiscal years will be budgeted accordingly.

If this agreement is not approved, HHSA will be unable to be Consequences if not approved:

> reimbursed for providing expanded substance use services at our negotiated rate based on estimated and actual program costs.

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

File ID #: 23-1601 **Board of Supervisors Agenda Date:** 12/5/2023

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 DMC-ODS is a Medi-Cal benefit and delivery system in counties that choose to opt into and implement the waiver. The DMC-ODS allows counties to selectively contract with providers in a managed care environment to deliver a full array of services consistent with the American Society of Addiction Medicine (ASAM) Treatment Criteria, including recovery supports and services. Napa County opted into participating in the DMC -ODS waiver in December 2017 to address the prior limitations on California's Drug-Medi-Cal funded (DMC) services. By continuing to participate in the waiver, Napa County beneficiaries have a full continuum of evidence-based substance use disorder treatment services to increase the likelihood of achieving and sustaining long-term recovery.

DHCS has instituted several improvements to the DMC-ODS program through the California Advancing and Innovating Med-Cal (CalAIM) initiative. There are many significant changes to the DMC-ODS program including reimbursement for treatment services during the assessment period while a diagnosis is being formed. Additionally, ASAM level .50 (early intervention services) are now reimbursable for youth. Also, people leaving correctional settings with a known SUD are now immediately eligible at release for recovery services. Lastly, the most impactful change associated with the launch of CalAIM for DMC-ODS counties is that residential treatment episodes are no longer capped at a two stay maximum per calendar year. This change is specifically impactful to women who often leave residential treatment due to childcare issues. People will now have access to life saving residential care when needed.

SCO ID: 4260-2330115

Napa County Agmt. No. 240177B

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES AGREEMENT NUMBER PURCHASING AUTHORITY NUMBER (If Applicable) STANDARD AGREEMENT 23-30115 STD 213 (Rev. 04/2020) 1. This Agreement is entered into between the Contracting Agency and the Contractor named below: CONTRACTING AGENCY NAME Department of Health Care Services **CONTRACTOR NAME** County of Napa 2. The term of this Agreement is: START DATE July 1, 2023 THROUGH END DATE June 30, 2027 3. The maximum amount of this Agreement is: \$38,502,000.00 (Thirty-Eight Million, Five Hundred, Two Thousand Dollars) 4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement. **Exhibits** Title **Pages Exhibit A** Scope of Work Exhibit A. **Program Specifications** 198 Attachment I 10 Exhibit B **Budget Detail and Payment Provisions** Exhibit B, **Funding Amounts** 1 Attachment I GTC Exhibit C* General Terms and Conditions 4/2017 Exhibit D(F) Special Terms and Conditions-Notwithstanding provision 4.g. which does not apply to this agreement. 41 Exhibit E Additional Provisions 4 Exhibit F HIPAA Business Associate Addendum 10 Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at https://www.dgs.ca.gov/OLS/Resources IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO. **CONTRACTOR** CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.) County of Napa CONTRACTOR BUSINESS ADDRESS CITY STATE Ζ**Ι**Ρ CA 2751 Napa Valley Corporate Drive Napa 94558 PRINTED NAME OF PERSON SIGNING TITLE

DATE SIGNED

APPROVED AS TO FORM BY NAPA COUNTY COUNSEL

By: Rachel L. Ross (e-signature) Date: October 20, 2023

CONTRACTOR AUTHORIZED SIGNATURE

SCO ID: 4260-2330115

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES AGREEMENT NUMBER PURCHASING AUTHORITY NUMBER (If Applicable) **STANDARD AGREEMENT** 23-30115 STD 213 (Rev. 04/2020) STATE OF CALIFORNIA CONTRACTING AGENCY NAME Department of Health Care Services CONTRACTING AGENCY ADDRESS CITY Z**I**P STATE 1501 Capitol Avenue, MS 4200 Sacramento CA 95814 PRINTED NAME OF PERSON SIGNING TITLE CONTRACTING AGENCY AUTHORIZED SIGNATURE DATE SIGNED CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL EXEMPTION (If Applicable) W&I Code 14184.102(e)

1. Service Overview

This Intergovernmental Agreement (hereinafter referred to as Agreement) is entered into by and between the California Department of Health Care Services (DHCS) and the Contractor for the purpose of identifying and providing covered Drug Medi-Cal Organized Delivery System (DMC-ODS) services for substance use disorder treatment in the Contractor's service area pursuant to Sections 11848.5(a) and (b) of the Health and Safety Code, Sections 14021.51–14021.53 and 14124.20–14124.25 of the Welfare and Institutions Code (hereinafter referred to as W&I Code), Part 438 of the Code of Federal Regulations, and the Special Terms and Conditions of the DMC-ODS waiver.

It is further agreed this Agreement is controlled by applicable provisions of: (a) W&I Code, Division 9, Part 3, Chapter 7, Sections 14000, *et seq.*, in particular, but not limited to, Sections 14100.2, 14021, 14021.5, 14021.6, 14043, *et seq.* and (b) Division 4 of Title 9 of the California Code of Regulations.

It is understood and agreed that nothing contained in this Agreement shall be construed to impair the single state agency authority of DHCS.

The objective of this Agreement is to make DMC-ODS services available to Medi-Cal beneficiaries through utilization of federal and state funds available pursuant to Title XIX or Title XXI of the Social Security Act for reimbursable covered services rendered by DMC providers.

2. Service Location

The services shall be performed at facilities in the County of Napa.

3. Service Hours

The services shall be provided during the working hours and days as defined by the Contractor.

4. Project Representatives

A. The project representatives during the term of this Agreement will be:

Department of Health Care Services
Contract/Grant Manager:
Donnie Boyett

County of Napa
Jennifer Yasumoto
Director

Telephone: (209) 261-0085 Telephone: (707) 253-4678

Fax: (916) 322-1176 Fax: (707) 253-6172

Email: Donnie.Boyett@dhcs.ca.gov Email: Jennifer.Yasumoto@countyofnapa.org

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Direct all inquiries to:

Department of Health Care Services	County of Napa
Department of Health Care Services MCBHD – Program Policy Section Attention: Scott Oros Mail Station Code 2702 1500 Capitol Avenue Sacramento, CA 95814	Napa County Health and Human Services Agency Attention: Jennifer Yasumoto, Director 2751 Napa Valley Corporate Drive, Napa, CA 94558
Telephone: (916) 713-8557 Fax: (916) 322-1176 Email: <u>Scott.Oros@dhcs.ca.gov</u>	Telephone: (707) 253-4678 Fax: (707) 253-6172 Email: Jennifer.Yasumoto@countyofnapa.org

B. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this Agreement.

5. Americans with Disabilities Act

Contractor agrees to ensure that deliverables developed and produced, pursuant to this Agreement shall comply with the accessibility requirements of Sections 7405 and 11135 of the California Government Code, Section 508 of the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794d), regulations implementing the Rehabilitation Act of 1973 as set forth in Part 1194 of Title 36 of the Code of Federal Regulations, and the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.). In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code Sections 7405 and 11135 codifies Section 508 of the Rehabilitation Act of 1973 requiring accessibility of EIT.

6. See Exhibit A, Attachment I, for a detailed description of the services to be performed.

7. Should any part of the scope of work under this contract relate to a State program receiving Federal Financial Participation (FFP) that is no longer authorized by law (e.g., which has been vacated by a court of law, or for which CMS has withdrawn federal authority, or which is the subject of a legislative repeal), Contractor must do no work on that part after the effective date of the loss of such program authority. DHCS must adjust payments to remove costs that are specific to any State program or activity receiving FFP that is no longer authorized by law. If Contractor works on a State program or activity receiving FFP that is no longer authorized by law after

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the date the legal authority for the work ends, Contractor will not be paid for that work. If DHCS has paid Contractor in advance to work on a no-longer-authorized State program or activity receiving FFP and under the terms of this contract the work was to be performed after the date the legal authority ended, the payment for that work should be returned to DHCS. However, if Contractor worked on a State program or activity receiving FFP prior to the date legal authority ended for that State program or activity, and DHCS included the cost of performing that work in its payments to Contractor, Contractor may keep the payment for that work even if the payment was made after the date the State program or activity receiving FFP lost legal authority.

8. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that will be grounds for termination of this agreement. The State must provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination will be at the sole discretion of the State.

9. Reference Documents

All DMC-ODS documents incorporated by reference into this Agreement may not be physically attached to the Agreement, but can be found at DHCS' website: https://www.dhcs.ca.gov/provgovpart/Pages/DMC-ODS-Contracts.aspx.

Document 1F(a): Reporting Requirement Matrix – County Submission

Requirements for the Department of Health Care Services

Document 1G: Perinatal Practice Guidelines

Document 1J: Attachment Y of the DMC-ODS Special Terms and Conditions

Document 1K: Drug and Alcohol Treatment Access Report (DATAR)

Document 1P: Alcohol and/or Other Drug Program Certification Standards

Document 1V: Adolescent Substance Use Disorder Best Practices Guide

Document 2A: Sobky v. Smoley, Judgment, Signed February 1, 1995

Document 2G Drug Medi-Cal Billing Manual

Document 2L(a): Good Cause Certification (6065A)

Document 2L(b): Good Cause Certification (6065B)

Document 2P: County Certification - Cost Report Year-End Claim For

Reimbursement

Document 2P(a): DMC-ODS Cost Report Excel Workbook

Document 3G: California Code of Regulations, Title 9 – Rehabilitation and

Developmental Services, Division 4 – Department of Alcohol and

Drug Programs, Chapter 4 – Narcotic Treatment Programs

Document 3H: California Code of Regulations, Title 9 – Rehabilitation and

Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other

Drug Counselors

Document 3J: CalOMS Treatment Data Collection Guide

Document 3S CalOMS Treatment Data Compliance Standards

Document 3V Culturally and Linguistically Appropriate Services (CLAS) National

Standards

Document 4D: Drug Medi-Cal Certification for Federal Reimbursement (DHCS

100224A)

Document 4F: Drug Medi-Cal (DMC) MC # 5312 Services Quarterly Claim for

Reimbursement of County Administrative Expenses

Document 5A: Confidentiality Agreement

Exhibit A, Attachment I Program Specifications

I. Preamble

- A. This Intergovernmental Agreement (hereinafter referred to as Agreement) is entered into by and between the Department of Health Care Services (hereinafter referred to as DHCS, The Department, or the state) and the Contractor for the purpose of identifying and providing covered Drug Medi-Cal Organized Delivery System (DMC-ODS) services for substance use disorder (SUD) treatment in the Contractor's service area pursuant to sections 14021.51–14021.53, 14124.20–14124.25, 14184.100 *et seq.* of the Welfare and Institutions Code (hereinafter referred to as W&I Code), Part 438 of the Code of Federal Regulations (hereinafter referred to as 42 CFR 438); Behavioral Health Information Notice (BHIN) 23-001.
- **B.** The Contractor has elected to opt into the DMC-ODS to provide or arrange covered DMC-ODS services described under this Agreement to eligible Medi-Cal individuals who reside within the Contractor's county borders. The Contractor shall comply with all State and federal statutes and regulations, the terms of this Agreement, BHINs, and any other applicable authorities. In the event of a conflict between the terms of this Agreement and a State or federal statute or regulation, or a BHIN, the Contractor shall adhere to the applicable statue, regulation, or BHIN.
- **C.** It is further agreed this Agreement is controlled by applicable provisions of: (a) the W&I Code, Division 9, Part 3, Chapter 7, sections 14000, et seq., in particular, but not limited to, sections 14100.2, 14021, 14021.5, 14021.6, 14043, et seq., 14184.100 *et seq.*, and (b) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Cal. Code Regs., tit. 9).
- **D.** It is understood and agreed that nothing contained in this Agreement shall be construed to impair the single state agency authority of DHCS.
- E. The objective of this Agreement is to make DMC-ODS services available to Medi-Cal beneficiaries through utilization of federal and state funds available pursuant to Title XIX or Title XXI of the Social Security Act (hereinafter referred to as the Act) for reimbursable covered services rendered by enrolled DMC providers.
- **F.** DMC-ODS services shall be provided through a Prepaid Inpatient Health Plan (PIHP) as defined in 42 CFR §438.2.

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Program Specifications

G. This Agreement requires the Contractor to ensure the availability and accessibility of adequate numbers of facilities, service locations, service sites, and professional, allied, and supportive personnel to provide medically necessary services, and ensure the authorization of services for urgent conditions. The DMC-ODS provides for automatic mandatory enrollment of all Medi-Cal beneficiaries in the single PIHP operating in the county in which the beneficiary resides. PIHPs in a very small county or in any one geographic area may have a limited number of providers for a particular service. Except as required by 42 CFR §§438.62 and 438.206(b)(4), the Contractor is not obligated to subcontract with additional providers to provide more choices for an individual beneficiary.

II. Federal Requirements

A. Waived and Inapplicable Federal Requirements

- The Contractor is operating as a nonrisk PIHP. Accordingly, the provisions of 42 CFR §438 and other regulations are identified as inapplicable to the DMC-ODS on pages 15-16 of the California Advancing & Innovating Medi-Cal (CalAIM) 1915(b) Waiver (Waiver Control # CA 17.R10) Approved Application, and are not applicable to this Agreement.
- 2. Under DMC-ODS, free choice of providers is restricted. That is, beneficiaries enrolled in this program shall receive DMC-ODS services through the Contractor, operating as a PIHP. Based on this service delivery model, the Department has requested, and Centers for Medicare & Medicaid Services (CMS) has granted approval to waive certain 42 CFR Part 438 provisions identified on pages 12-15 of the CalAIM 1915(b) Waiver Approved Application.

B. General Provisions

- 1. Standard Contract Requirements (42 CFR §438.3).
 - i. CMS shall review and approve this Agreement.
 - ii. Enrollment discrimination is prohibited.
 - a. The Contractor shall accept individuals eligible for enrollment in the order in which they apply without restriction (unless authorized by CMS), up to the limits set under this Agreement.
 - b. Enrollment is mandatory.

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Program Specifications

- c. The Contractor shall not, based on health status or need for health care services, discriminate against individuals eligible to enroll.
- d. The Contractor shall follow all Federal and State civil rights laws. The Contractor shall not unlawfully discriminate, exclude people, or treat them differently, on any ground protected under Federal or State law, including sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.
- e. The Contractor will not use any policy or practice that has the effect of discriminating on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.
- f. The Contractor shall provide information on how to file a Discrimination Grievance with:
 - i. The Contractor and the Department if there is a concern of discrimination based on sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.
 - ii. The United States Department of Health and Human Services Office of Civil Rights if there is a concern of discrimination based on race, color, national origin, sex, age, or disability.
- iii. Services that may be covered by the Contractor.
 - a. The Contractor may cover, for beneficiaries, services that are in addition to those covered under the State Plan as follows:

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- i. Any services that the Contractor voluntarily agrees to provide.
- ii. Any services necessary for compliance by the Contractor with the parity requirements set forth in 42 CFR §438.900 et. al and only to the extent such services are necessary for the Contractor to comply with 42 CFR §438.910.
- iv. Compliance with applicable laws and conflict of interest safeguards.
 - a. The Contractor shall comply with all applicable Federal and state laws and regulations including:
 - i. Title VI of the Civil Rights Act of 1964.
 - ii. Title IX of the Education Amendments of 1972 (regarding education programs and activities).
 - iii. The Age Discrimination Act of 1975; the Rehabilitation Act of 1973.
 - iv. The Americans with Disabilities Act of 1990 as amended.
 - v. Section 1557 of the Patient Protection and Affordable Care Act.
 - b. The Contractor shall comply with the conflict of interest safeguards described in 42 CFR §438.58 and with the prohibitions described in section 1902(a)(4)(C) of the Act applicable to contracting officers, employees, or independent contractors.
 - c. Provider-preventable condition requirements:
 - i. The Contractor shall comply with the requirements mandating provider identification of provider-preventable conditions as a condition of payment, as well as the prohibition against payment for provider-preventable conditions. The Contractor shall report all identified provider-preventable conditions to the Department.

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- ii. The Contractor shall not make payments to a provider for provider-preventable conditions that meet the following criteria:
 - 1. Is identified in the State Plan.
 - Has been found by the state, based upon a review of medical literature by qualified professionals, to be reasonably preventable through the application of procedures supported by evidencebased guidelines.
 - 3. Has a negative consequence for the beneficiary.
 - 4. Is auditable.
- iii. The Contractor shall use and submit the report using the DHCS Drug Medi-Cal Organized Delivery System Provider Preventable Conditions (PPC) Reporting Form at the time of discovery of any provider preventable conditions that are covered under this provision to:

Department of Health Care Services Medi-Cal Behavioral Health Division 1500 Capitol Avenue, MS-2623 Sacramento, CA 95814

Or by secure, encrypted email to: ODSSubmissions@dhcs.ca.gov

v. Inspection and audit of records and access to facilities.

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a. The Department, CMS, the Office of the Inspector General, the Comptroller General, and their designees may, at any time, inspect and audit any records or documents of the Contractor, or its subcontractors, and may, at any time, inspect the premises, physical facilities, and equipment where Medicaid-related activities are conducted. The right to audit under this section exists for ten years from the final date of the Agreement period or from the date of completion of any audit, whichever is later.

vi. Subcontracts.

- All subcontracts shall fulfill the requirements or activity delegated under the subcontract in accordance with 42 CFR §438.230.
- b. The Contractor shall require that subcontractors not bill beneficiaries for covered services under a contractual, referral, or other arrangement with the Contractor in excess of the amount that would be owed by the individual if the Contractor had directly provided the services (42 U.S.C. 1396u–2(b)(6)(C)).
- vii. Choice of network provider.
 - The Contractor shall allow each beneficiary to choose their network provider to the extent possible and appropriate.
- viii. Audited financial reports.
 - a. The Contractor shall submit audited financial reports specific to this Agreement on an annual basis. The audit shall be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards.
- ix. Recordkeeping requirements.

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- a. The Contractor shall retain, and require subcontractors to retain, as applicable, the following information: beneficiary grievance and appeal records in 42 CFR §438.416, and the data, information, and documentation specified in 42 CFR §§438.604, 438.606, 438.608, and 438.610 for a period of no less than ten years.
- 2. Information Requirements (42 CFR §438.10).
 - i. Basic Rules
 - a. The Contractor shall provide all required information in this section to beneficiaries and potential beneficiaries in a manner and format that may be easily understood and is readily accessible by such beneficiaries and potential beneficiaries.
 - ii. The Department shall operate a website that provides the content, either directly or by linking to the Contractor's website.
 - iii. For consistency in the information provided to beneficiaries, the Contractor shall use:
 - a. The Department developed definitions for managed care terminology, including appeal, emergency medical condition, excluded services, grievance, health insurance, hospitalization, medically necessary, network, non-participating provider, physician services, plan, preauthorization, participating provider, prescription drugs, primary care physician, primary care provider, provider, rehabilitation services, and urgent care.
 - b. The Department developed model beneficiary handbooks and beneficiary notices.
 - iv. The Contractor shall provide the required information in this section to each beneficiary.
 - v. Beneficiary information required in this section may not be provided electronically by the Contractor unless all the following are met:
 - a. The format is readily accessible.

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- b. The information is placed in a location on the Department or the Contractor's website that is prominent and readily accessible.
- c. The information is provided in an electronic form, which can be electronically retained and printed.
- d. The information is consistent with the content and language requirements of this section.
- e. The beneficiary is informed that the information is available in paper form without charge upon request and provides it upon request within five business days.
- vi. The Contractor shall have in place mechanisms to help beneficiaries and potential beneficiaries understand the requirements and benefits of the plan.
- vii. The Contractor shall comply with all requirements set forth under 42 CFR §438.10(d) and Article II.K of this Agreement.
- viii. Information for potential beneficiaries.
 - a. The Contractor shall provide the information specified in this section to each potential beneficiary, either in paper or in electronic format, at the time that the potential beneficiary is first required to enroll in the Contractor's program.
 - b. The information for potential beneficiaries shall include, at a minimum, all the following:
 - i. The basic features of managed care.
 - ii. Which populations are subject to mandatory enrollment and the length of the enrollment period.
 - iii. The service area covered by the Contractor.
 - iv. Covered benefits including:
 - 1. Which benefits are provided by the Contractor.
 - 2. Which, if any, benefits are provided directly by the Department.
 - v. The provider directory and formulary information.

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- vi. The requirements for each Contractor to provide adequate access to covered services, including the network adequacy standards established in 42 CFR §438.68.
- vii. The Contractor's entities responsible for coordination of beneficiary care.
- viii. To the extent available, quality and performance indicators for the Contractor, including beneficiary satisfaction.
- ix. Information for all beneficiaries of the Contractor.
 - a. The Contractor shall make a good faith effort to give written notice of termination of a subcontracted provider, within 15 calendar days after receipt or issuance of the termination notice, to each beneficiary who received their primary care from, or was seen on a regular basis by, the terminated provider.
- x. Beneficiary handbook.
 - a. The Contractor shall provide beneficiaries with a copy of the handbook and provider directory when the beneficiary first accesses services and thereafter upon request (BHIN 22-060).
 - b. The Contractor shall ensure that the handbook includes the current toll- free telephone number(s) that provides information in threshold languages and is available twenty-four hours a day, seven days a week (BHIN 22-060).
 - c. The beneficiary handbook shall include information that enables the beneficiary to understand how to effectively use the managed care program. This information shall include, at a minimum:
 - i. Benefits provided by the Contractor. (42 C.F.R. § 438.10(g)(2)(i)).
 - ii. How and where to access any benefits provided by the Contractor, including any cost sharing, and how transportation is provided. (42 C.F.R. § 438.10(g)(2)(ii)).

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- The amount, duration, and scope of benefits available under the Contract in sufficient detail to ensure that beneficiaries understand the benefits to which they are entitled. (42 C.F.R. § 438.10(g)(2)(iii)).
- Procedures for obtaining benefits, including any requirements for service authorizations and/or referrals for specialty care and for other benefits not furnished by the beneficiary's provider. (42 C.F.R. § 438.10(g)(2)(iv)).
- 3. Any restrictions on the beneficiary's freedom of choice among network providers. (42 C.F.R. § 438.10(g)(2)(vi)).
- The extent to which, and how, beneficiaries may obtain benefits from out-of-network providers. (42 C.F.R. § 438.10(g)(2)(vii)).
- 5. Cost sharing, if any, consistent with the State Plan. (42
- 6. C.F.R. § 438.10(g)(2)(viii); State Plan § 4.18).
- Beneficiary rights and responsibilities, including the elements specified in § 438.100 as specified in Section 7 of this Attachment. (42 C.F.R. § 438.10(g)(2)(ix)).
- 8. The process of selecting and changing the beneficiary's provider. (42 C.F.R. § 438.10(g)(2)(x)).

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- Grievance, appeal, and State Hearing procedures and timeframes, consistent with 42 C.F.R. §§ 438.400 through 438.424, in a state-developed or stateapproved description. Such information shall include:
 - The right to file grievances and appeals;
 - a. The Contractor shall include information on filing a Discrimination Grievance with the Contractor, the Department's Office of Civil Rights and the U.S. Health and Human Services Office for Civil Rights, and shall specifically include information stating that the Contractor complies with all state and federal civil rights laws. If a beneficiary believes they have been unlawfully discriminated against, they have the right to file a Discrimination Grievance with the Contractor, the Department's Office of Civil Rights, and the United States Department of Health and Human Services, Office for Civil Rights.
 - ii. The requirements and timeframes for filing a grievance or appeal;
 - iii. The availability of assistance in the filing process;

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- iv. The right to request a State
 Hearing after the Contractor has
 made a determination on a
 beneficiary's appeal which is
 adverse to the beneficiary;
- ٧. The fact that, when requested by the beneficiary, benefits that the Contractor seeks to reduce or terminate will continue if the beneficiary files an appeal or a request for State Hearing within the timeframes specified for filing, and that the beneficiary may, consistent with state policy, be required to pay the cost of services furnished while the appeal or State Hearing is pending if the final decision is adverse to the beneficiary. (42 C.F.R. § 438.10(g)(2)(xi)).
- 10. How to exercise an advance directive, as set forth in 42 C.F.R. 438.3(j). (42 C.F.R. § 438.10(g)(2)(xii).)
- 11. How to access auxiliary aids and services, including additional information in in alternative formats or languages. (42 C.F.R. § 438.10(g)(2)(xiii)).
- 12. The Contractor's toll-free telephone number for member services, medical management, and any other unit providing services directly to beneficiaries. (42 C.F.R. § 438.10(g)(2)(xiv)).
- 13. Information on how to report suspected fraud or abuse. (42 C.F.R § 438.10(2)(xv)).

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- 14. Additional information that is available upon request, includes the following:
 - Information on the structure and operation of the Contractor.
 - ii. Physician incentive plans as set forth in 42 C.F.R. § 438.3(i). (42 C.F.R. § 438.10(f)(3)).
- d. The Contractor shall give each beneficiary notice of any significant change (as defined by the Department) to information in the handbook at least 30 days before the intended effective date of the change. (42 C.F.R. § 438.10(g)(4)).
- e. Consistent with 42 Code of Federal Regulations part 438.10(g)(3), BHIN 22-060 and the handbook must be provided to each beneficiary at the time the beneficiary first accesses services. The handbook will be considered provided if the Contractor:
 - Mails a printed copy of the information upon the beneficiary's request to the beneficiary's mailing address;
 - ii. Provides the information by email after obtaining the beneficiary's agreement to receive the information by email;
 - iii. Posts the information on the Contractor's website and advises the beneficiary in paper or electronic form that the information is available on the internet and includes the applicable internet addresses, provided that beneficiaries with disabilities who cannot access this information online are provided auxiliary aids and services upon request at no cost; or,
 - iv. Provides the information by any other method that can reasonably be expected to result in the beneficiary receiving that information.

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- xi. Provider Directory.
 - a. The Contractor shall make available in electronic form and, upon request, in paper form, the following information about its network providers:
 - i. The provider's name as well as any group affiliation.
 - ii. Street address(s).
 - iii. Telephone number(s).
 - iv. Email address(es), as appropriate.
 - v. Website URL, as appropriate.
 - vi. Services/modalities provided, including information about populations served.
 - vii. Specialty, in terms of training, experience and specialization, including board certification as appropriate.
 - viii. The provider's cultural capabilities (e.g., veterans, older adults, Transitional Age Youth, Lesbian, Gay, Bisexual, Transgender).
 - ix. Whether the provider will accept new beneficiaries.
 - x. The provider's capabilities including languages offered by the provider or a skilled medical interpreter at the provider's office and whether the provider has completed cultural competence training.
 - xi. Whether the provider's office/facility has accommodations for people with physical disabilities, including offices, exam room(s) and equipment.
 - xii. In addition to the information listed above, the provider directory must also include the following information for each rendering provider:
 - 1. Type of practitioner, as appropriate.
 - 2. National Provider Identifier number.

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- 3. California license number and type of license.
- b. The Contractor shall include the following provider types covered under this Agreement in the provider directory:
 - i. Physicians, including specialists
 - ii. Hospitals
 - iii. Pharmacies
 - iv. Behavioral health providers
- c. Information included in a paper provider directory shall be updated at least monthly and electronic provider directories shall be updated no later than 30 calendar days after the Contractor receives updated provider information.
- d. Provider directories shall be made readily accessible on the Contractor's website in a machine-readable file and format as specified by the Secretary of Health and Human Services.
- xii. Provider Directory Application Programming Interface (API)
 - a. The Contractor shall implement and maintain a publicly accessible standards-based Provider Directory API as described in 42 CFR section 431.70, and meet the same technical standards of the Patient Access API, excluding the security protocols related to user authentication and authorization. The Contractor is required to update the Provider Directory API no later than 30 calendar days after the Contractor receives the provider information, or is notified of a change.
 - b. The Contractor shall ensure the Provider Directory API include the following information about the Contractor's network providers for behavioral health providers, hospitals, and any other providers or facilities contracted for Medi-Cal covered services under this DMC- ODS Intergovernmental Agreement (IA):

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- i. Name of provider, medical group/foundation, independent physician/provider associations, or site as well as any group affiliation;
- ii. National Provider Identifier number;
- iii. Street address(es);
- iv. All telephone numbers associated with the practice site;
- v. Website URL for each service location or physician provider, as appropriate;
- vi. Specialty, as applicable;
- vii. Hours and days when each service location is open, including the availability of evening and/or weekend hours;
- viii. Services and benefits available;
- ix. Whether the provider will accept new beneficiaries;
- x. Cultural and linguistic capabilities, including whether non-English languages and American Sign Language are offered by the provider or a skilled medical interpreter at the provider's office, and if the provider has completed cultural competence training;
- xi. Whether the provider's office/facility has accommodations for people with physical disabilities, including offices, exam room(s), and equipment; and
- xii. Telephone number to call the 24/7 access line.

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c. If the Contractor is currently maintaining an electronic provider directory on its website as required by 42 CFR 438.10(h) and this IA, and are meeting the required provider directory data elements above, then the Contractor may transfer the information to the Provider Directory API. However, if any of the required data elements are missing from the electronic provider directory, the Contractor shall take appropriate steps to ensure the Provider Directory API includes all required data elements.

xiii. Formulary.

- a. The Contractor shall make available in electronic or paper form, the following information about its formulary:
 - i. Which medications are covered (both generic and name brand).
 - ii. What tier each medication resides.
- b. Formulary drug lists shall be made available on the Contractor's website in a machine-readable file and format as specified by the Secretary.
- 3. Provider Discrimination Prohibited (42 CFR § 438.12).
 - The Contractor shall not discriminate in the participation, reimbursement, or indemnification of any provider who is acting within the scope of their license or certification under applicable state law, solely on the basis of that license or certification.
 - ii. If the Contractor declines to include individual or groups of providers in its provider network, it shall give the affected providers written notice of the reason for its decision.
 - iii. In all contracts with network providers, the Contractor shall comply with the requirements specified in 42 CFR §438.214.
 - iv. This section may not be construed to:
 - Require the Contractor to subcontract with providers beyond the number necessary to meet the needs of its beneficiaries.

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- Preclude the Contractor from using different reimbursement amounts for different specialties or for different practitioners in the same specialty.
- c. Preclude the Contractor from establishing measures that are designed to maintain quality of services and control costs and are consistent with its responsibilities to beneficiaries.
- Requirements that Apply to American Indian and Alaska Native (Al/AN), Indian Health Care Providers (IHCPs), and Indian Managed Care Entities (IMCEs) (42 CFR §438.14; BHIN 23-001and BHIN 22-053).
 - In order to receive reimbursement from a county or the state for the provision of DMC-ODS services (whether or not the IHCP is contracted with the Contractor), an IHCP shall be enrolled as a DMC provider and certified by DHCS to provide those services.
 - ii. The Contractor shall demonstrate that there are sufficient IHCPs participating in the provider network to ensure timely access to DMC-ODS services available. The Contractor shall adhere to all 42 CFR 438.14 requirements.
 - iii. The Contractor shall ensure contracts with DMC-certified IHCPs permit both AI/AN and non-AI/AN beneficiaries to obtain DMC-ODS services from the IHCPs. The Contractor shall reimburse DMC-certified IHCPs for the provision of DMC-ODS services to AI/AN Medi-Cal beneficiaries, even if the Contractor does not have a contract with the IHCP. The rates that the county must pay to an IHCP for services rendered by contracting IHCPs to non-AI/AN beneficiaries is the same as the rates paid for services rendered to AI/AN beneficiaries.
 - iv. The Contractor shall pay DMC-certified IHCPs at rates consistent with the requirements of 42 CFR §438.14, the State Plan, and Department Information Notices and guidance.

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- v. The Contractor shall make payment to all DMC-certified IHCPs in its network in a timely manner as required for payments to practitioners in individual or group practices under 42 CFR 447.45 and 447.46.
- vi. The Contractor shall permit AI/AN beneficiaries to obtain services covered under this Agreement between the State and the Contractor from out-of-network DMC-certified IHCPs from whom the beneficiary is otherwise eligible to receive such services.
- vii. If timely access to covered services cannot be ensured due to few or no DMC-certified IHCPs, the Contractor will be considered to have demonstrated that there are sufficient IHCPs participating in the Contractor's provider network to ensure timely access to services by permitting Al/AN beneficiaries to access out-of-state DMC-certified IHCPs.
- viii. The Contractor shall permit an out-of-network DMC-certified IHCP to refer an AI/AN beneficiary to a network provider.
- ix. All Al/AN Medi-Cal beneficiaries whose county of responsibility is a DMC-ODS county may choose to receive DMC-ODS services at any DMC-certified IHCP, whether or not the IHCP has a current contract with the beneficiary's county of responsibility and whether or not the IHCP is located in the beneficiary's county of responsibility. The Contractor shall reimburse DMC-certified IHCPs for the provision of these services to Al/AN Medi-Cal beneficiaries, even if the Contractor does not have a contract with the IHCP. The Contractor is not obligated to pay for services provided to non-Al/AN beneficiaries by IHCPs that are not contracted with the DMC-ODS County.
- x. Al/AN individuals who are eligible for Medicaid and reside in counties that have opted into the DMC-ODS can also receive DMC-ODS services through IHCPs.

C. State Responsibilities

1. Conflict of Interest Safeguards (42 CFR §438.58).

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- i. The Department shall have in effect safeguards against conflict of interest on the part of Department and local officers and employees and agents of the Department who have responsibilities relating to this Agreement. These safeguards shall be at least as effective as the safeguards specified in section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).
- 2. Prohibition of Additional Payments (42 CFR §438.60).
 - i. The Department shall ensure that no payment is made to a network provider other than by the Contractor for services covered under this Agreement, except when these payments are specifically required to be made by the Department in Title XIX of the Act, in 42 CFR chapter IV.
- 3. Continued Services to Beneficiaries (42 CFR §438.62).
 - i. The Department shall arrange for Medicaid services to be provided without delay to any Medicaid beneficiary of the Contractor if this Agreement is terminated.
 - ii. The Department shall have in effect a transition of care policy to ensure continued access to services during a transition from Fee-For-Service (FFS) to the Contractor or transition from one Contractor to another when a beneficiary, in the absence of continued services, would suffer serious detriment to their health or be at risk of hospitalization or institutionalization.
 - iii. The Contractor shall implement a transition of care policy consistent with the requirements of the Department's transition of care policy.
 - iv. The Department shall make its transition of care policy publicly available and provide instructions on how beneficiaries and potential beneficiaries access continued services upon transition. At a minimum, the Contractor shall provide the transition of care policy to beneficiaries and potential beneficiaries in the beneficiary handbook and notices.
- 4. Beneficiary Support System (42 C.F.R. § 438.71(a)-(b))

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- i. The Department shall develop and implement a beneficiary support system that provides support to beneficiaries both prior to and after enrollment. The beneficiary support system must perform outreach to beneficiaries and/or authorized representatives and be accessible in multiple ways including phone, Internet, in-person, and via auxiliary aids and services when requested.
- 5. State Monitoring Requirements (42 CFR §438.66).
 - i. The Department shall have in effect a monitoring system for the Contractor.
 - ii. The Department's monitoring system is outlined in Article III.KK of this Agreement.
 - iii. The Department shall use data collected from its monitoring activities to improve the performance of the Contractor. That data shall include, at minimum:
 - a. Beneficiary grievance and appeal logs.
 - b. Provider complaint and appeal logs.
 - c. Findings from the State's External Quality Review process.
 - d. Results from any beneficiary or provider satisfaction survey conducted by the State or the Contractor.
 - e. Performance on required quality measures.
 - f. Medical management committee reports and minutes.
 - g. The annual quality improvement plan for the Contractor.
 - h. Customer service performance data submitted by the Contractor and performance data submitted by the beneficiary support system.

- iv. The Department may impose administrative and monetary sanctions, including the temporary withhold of federal financial participation and realignment payments on the Contractor for violations of the terms of this contract, and applicable federal and state law and regulations, or the state plan or approved waivers, or for other good cause in accordance with W&I Code § 14197.7 and guidance issued by the Department pursuant to subdivision (r) of W&I Code § 14197.7.
- 6. Network Adequacy Standards (42 CFR §438.68).
 - The Contractor shall adhere to, in all geographic areas within the county, all applicable time or distance standards for network providers, including those set forth in W&I Code section 14197 and any Information Notices issued pursuant to that section.
 - a. Pursuant to W&I Code section 14197(d)(1)(A), the Contractor shall ensure that all beneficiaries seeking outpatient and intensive outpatient (non-NTP) services be provided with an appointment within ten business days of a non-NTP service request.
 - b. Pursuant to W&I Code section 14197(d)(3), the Contractor shall ensure that all beneficiaries seeking NTP services are provided with an appointment within three business days of a service request.
 - c. If the Contractor cannot meet the time or distance standards set forth in this section, the Contractor shall submit a request for alternative access standards to the Department.
 - d. Pursuant to W&I Code section 14197(d)(1)(A), under Health and Safety Code (H&S Code) section 1367.03, commencing on January 1, 2022 unless otherwise specified, the Contractor shall:

- Provide or arrange for the provision of covered substance use disorder services in a timely manner appropriate for the nature of the beneficiary's condition consistent with good professional practice (H&S Code section 1367.03(a)(1)).
- ii. Establish and maintain provider networks, policies, procedures, and quality assurance monitoring systems and processes sufficient to ensure compliance with this clinical appropriateness standard (H&S Code section 1367.03(a)(1)).
- iii. Ensure that all plan and provider processes necessary to obtain covered substance use disorder services, including, but not limited to, prior authorization processes, are completed in a manner that assures the provision of covered substance use disorder services to a beneficiary in a timely manner appropriate for the beneficiary's condition and in compliance with H&S Code section 1367.03 (H&S Code section 1367.03(a)(2)).
- iv. Ensure that, if it is necessary for a provider or a beneficiary to reschedule an appointment, the appointment is promptly rescheduled in a manner that is appropriate for the beneficiary's health care needs, and ensures continuity of care consistent with good professional practice, and consistent with H&S Code section 1367.03 and the regulations adopted thereunder (H&S Code section 1367.03(a)(3)).

- v. Ensure that interpreter services required by H&S Code section 1367.04 of and Cal. Code Regs., tit. 28, § 1300.67.0428 are coordinated with scheduled appointments for covered substance use disorder services in a manner that ensures the provision of interpreter services at the time of the appointment without imposing delay on the scheduling of the appointment (H&S Code section 1367.03(a)(4)).
- vi. Ensure a non-urgent appointment with a non-physician substance use disorder provider within ten business days of the request for the appointment (H&S Code section 1367.03(a)(5)(E)), except under the following circumstances:
 - The applicable waiting time for a particular appointment may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the beneficiary's health (H&S Code section 1367.03(a)(5)(H)).

- Preventive care services and periodic follow-up care, including standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac, mental health, or substance use disorder conditions, and laboratory and radiological monitoring for recurrence of disease, may be scheduled in advance consistent with professionally recognized standards of practice as determined by the treating licensed health care provider acting within the scope of their practice (H&S Code section 1367.03(a)(5)(I)).
- vii. Ensure that, commencing July 1, 2022, non-urgent follow up appointments with a non-physician substance use disorder provider: within ten business days of the prior appointment for those undergoing a course of treatment for an ongoing substance use disorder condition (H&S Code section 1367.03(a)(5)(F)), except under the following circumstance:
 - 1. The applicable waiting time for a particular appointment may be extended if the referring or treating licensed health care provider, or the health professional providing triage or screening services, as applicable, acting within the scope of their practice and consistent with professionally recognized standards of practice, has determined and noted in the relevant record that a longer waiting time will not have a detrimental impact on the

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beneficiary's health (H&S Code section 1367.03(a)(5)(H)).

- viii. Ensure it has sufficient numbers of contracted providers to maintain compliance with the standards established by H&S Code section 1367.03 (H&S Code section 1367.03(a)(7)).
- ix. Arrange for the coverage outside the Contractor's network in accordance with subdivision H&S Code section 1374.72(d) to ensure timely access to medically necessary covered substance use disorder services that are not available in network within the geographic and timely access standards set by law or regulation (H&S Code section 1367.03(a)(7)(B)).
- x. Arrange for the provision, 24 hours per day, 7 days per week, of triage or screening services by telephone, as defined in H&S Code section 1367.03(e) and in accordance with the requirements set forth in H&S Code section 1367.03(a)(8).
- xi. Ensure that, during normal business hours, the waiting time for a beneficiary to speak by telephone with a plan customer service representative knowledgeable and competent regarding the beneficiary's questions and concerns shall not exceed ten minutes (H&S Code section 1367.03(a)(10).
- xii. Ensure that contracting providers and employees are not prevented, discouraged, or disciplined for informing a beneficiary about the timely access standards (H&S Code section 1367.03(d)).
- xiii. Shall comply with the requirements under H&S Code sections 1367.03(f)(1) and 1367.03(f)(2).

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- e. Pursuant to W&I Code section 14197(e), the Department may grant requests for alternative access standards if the Contractor has exhausted all other reasonable options to obtain providers to meet the applicable standard or if the Department determines that the Contractor has demonstrated that its delivery structure is capable of delivering the appropriate level of care and access.
 - The Contractor shall include a description of the reasons justifying the alternative access standards.
 - Requests for alternative access standards shall be approved or denied on a zip code and service type basis.
- f. Pursuant to W&I Code section 14197(f)(3), the Contractor shall submit a description on how they intend to arrange for beneficiaries to access covered services if the provider is located outside of the time or distance standards. Requests for alternative access standards may include seasonal considerations (e.g. winter road conditions), when appropriate. Furthermore, the Contractor shall include an explanation about gaps in the county's geographic service area, including information about uninhabitable terrain within the county (e.g., desert, forestland), as appropriate. The use of clinically appropriate telecommunications technology may be considered in determining compliance with the applicable standards established in W&I Code section 14197(e) and other guidance or BHINs issued by DHCS and/or for approving an alternative access request.

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- g. DHCS will make a decision to approve or deny the request within 90 days of submission by the Contractor. DHCS may stop the 90-day timeframe, on one or more occasions as necessary, in the event of an incomplete submission or to obtain additional information from the Contractor (W&I Code section 14197(e)(3)).
- h. If the Contractor does not comply with the applicable standards at any time, DHCS may impose additional corrective actions, including sanctions, special requirements, probationary or corrective actions, or any other actions deemed necessary to ensure compliance.
- Sanctions shall be imposed in accordance with guidance issued in accordance with W&I Code section 14197.7 (d)-(f) by the Department.
- ii. The Department shall monitor beneficiary access to each provider type on an ongoing basis and communicate the findings to CMS in the managed care program assessment report required under 42 CFR §438.66.

D. Beneficiary Rights and Protections

- 1. Beneficiary Rights (42 CFR §438.100).
 - i. The Contractor shall have written policies guaranteeing the beneficiary's rights specified in 42 CFR 438.100.
 - ii. The Contractor shall comply with any applicable Federal and state laws that pertain to beneficiary rights, and ensures that its employees and subcontracted providers observe and protect those rights.
 - iii. Specific rights.
 - a. The Contractor shall ensure that its beneficiaries have the right to:
 - Receive information regarding the Contractor's PIHP and plan in accordance with 42 CFR §438.10.
 - ii. Be treated with respect and with due consideration for their dignity and privacy.

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- iii. Receive information on available treatment options and alternatives, presented in a manner appropriate to the beneficiary's condition and ability to understand.
- iv. Participate in decisions regarding their health care, including the right to refuse treatment.
- v. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation, as specified in other Federal regulations on the use of restraints and seclusion.
- vi. If the privacy rule, as set forth in 45 CFR parts 160 and 164 subparts A and E, applies, request and receive a copy of their medical records, and request that they be amended or corrected, as specified in 45 CFR § 164.524 and 164.526.
- b. The Contractor shall ensure that its beneficiaries have the right to be furnished health care services in accordance with 42 CFR §§438.206 through 438.210.
- iv. Free exercise of rights.
 - a. The Contractor shall ensure that each beneficiary is free to exercise their rights, and that the exercise of those rights does not adversely affect the way the Contractor and its network providers treat the beneficiary.
- v. Compliance with other Federal and state laws.
 - a. The Contractor shall comply with any other applicable Federal and state laws, including, but not limited to:
 - Title VI of the Civil Rights Act of 1964 as implemented by regulations at 45 CFR part 80.
 - The Age Discrimination Act of 1975 as implemented by regulations at 45 CFR part 91.
 - iii. The Rehabilitation Act of 1973.
 - iv. Title IX of the Education Amendments of 1972 (regarding education programs and activities).

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- v. Titles II and III of the Americans with Disabilities Act.
- vi. Section 1557 of the Patient Protection and Affordable Care Act.
- 2. Provider-Beneficiary Communications (42 CFR §438.102).
 - i. The Contractor shall not prohibit, or otherwise restrict, a provider acting within the lawful scope of practice, from advising or advocating on behalf of a beneficiary who is their patient, for the following:
 - a. The beneficiary's health status, medical care, or treatment options, including any alternative treatment that may be self-administered.
 - b. Any information the beneficiary needs to decide among all relevant treatment options.
 - c. The risks, benefits, and consequences of treatment or non-treatment.
 - d. The beneficiary's right to participate in decisions regarding their health care, including the right to refuse treatment, and to express preferences about future treatment decisions.
- 3. Liability for Payment (42 CFR §438.106).
 - i. The Contractor shall ensure that its beneficiaries are not held liable for any of the following:
 - a. The Contractor's debts, in the event of the Contractor's insolvency.
 - b. Covered services provided to the beneficiary, for which:
 - i. The state does not pay the Contractor; or
 - ii. The Contractor or the Department does not pay the individual or health care provider that furnished the services under a contractual, referral, or other arrangement.

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c. Payments for covered services furnished under a contract, referral, or other arrangement, to the extent that those payments are in excess of the amount that the beneficiary would owe if the Contractor covered the services directly.

E. Contractor Standards as a PIHP

- 1. Availability of Services (42 CFR §438.206).
 - i. The Contractor shall ensure that all services covered under the State Plan are available and accessible to its beneficiaries in a timely manner. The Contractor's provider networks for services covered under this Agreement shall meet the standards developed by the Department in accordance with 42 CFR §438.68.
 - ii. The Contractor shall, consistent with the scope of its contracted services, meet the following requirements:
 - a. Maintain and monitor a network of appropriate providers that is supported by written agreements and is sufficient to provide adequate access to all services covered under this Agreement for all beneficiaries, including those with limited English proficiency or physical or mental disabilities.
 - Provide for a second opinion from a network provider, or arrange for the beneficiary to obtain one outside the network, at no cost to the beneficiary.
 - c. If the provider network is unable to provide necessary services, covered under this Agreement, to a particular beneficiary, the Contractor shall adequately and timely cover these services out-of-network for the beneficiary, for as long as the Contractor's provider network is unable to provide them.
 - d. Require out-of-network subcontracted providers to coordinate with the Contractor for payment and ensure the cost to the beneficiary is no greater than it would be if the services were furnished within the network.

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- e. Demonstrate that its network providers are credentialed as required by 42 CFR §438.214.
- iii. The Contractor shall comply with the following timely access requirements:
 - a. Meet and require its network providers to meet Department standards for timely access to care and services, taking into account the urgency of the need for services.
 - Ensure that the network providers offer hours of operation that are no less than the hours of operation offered to commercial beneficiaries or comparable to Medicaid FFS, if the provider serves only Medicaid beneficiaries.
 - Make services included in this Agreement available
 24 hours a day, 7 days a week, when medically necessary.
 - d. Establish mechanisms to ensure compliance by network providers.
 - e. Monitor network providers regularly to determine compliance.
 - f. Take corrective action if there is a failure to comply by a network provider.
- iv. Access and cultural considerations
 - a. The Contractor shall participate in the Department's efforts to promote the delivery of services in a culturally competent manner to all beneficiaries, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of sex.
- v. Accessibility considerations
 - a. The Contractor shall ensure that its network providers provide physical access, reasonable accommodations, and accessible equipment for Medicaid beneficiaries with physical or mental disabilities.

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- 2. Assurances of Adequate Capacity and Services (42 CFR §438.207).
 - i. The Contractor shall give assurances to the Department and provide supporting documentation that demonstrates that it has the capacity to serve the expected enrollment in its service area in accordance with the Department's standards for access and timeliness of care under this part, including the standards at 42 CFR §438.68 and 42 CFR §438.206(c)(1).
 - ii. The Contractor shall submit documentation to the Department to demonstrate that it complies with the following requirements:
 - a. Offers an appropriate range of specialty services that are adequate for the anticipated number of beneficiaries for the service area.
 - Maintains a network of providers that is sufficient in number, mix, and geographic distribution to meet the needs of the anticipated number of beneficiaries in the service area.
 - iii. The Contractor shall submit network adequacy documentation to the Medi-Cal Behavioral Health Division (MCBHD) via DHCS' established method of submitting documentation:
 - Upon entering into this Agreement with the Department.
 - b. On an annual basis, at a date determined by the Department and communicated to Contractor with at least 60 days notice.
 - c. Within ten business days of a significant change in the Contractor's operations that would affect the adequacy and capacity of services, including composition of the Contractor's provider network.
 - d. As requested by the Department.

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- iv. The Contractor's failure to submit network adequacy documentation in a timely manner shall subject the Contractor to sanction as described in Article II.C.5.iv of this Agreement.
- v. Upon receipt of the Contractor's network adequacy documentation, the Department shall either certify the Contractor's network adequacy documentation or inform the Contractor that its documentation does not meet applicable time or distance standards, or Department approved alternate access standard.
- vi. Upon receipt of the Department's determination that the Contractor does not meet the applicable time or distance standards, or a DHCS approved alternate access standard, the Contractor shall submit a Corrective Action Plan (CAP) for approval to DHCS that describes action steps that the Contractor will immediately implement to ensure compliance with applicable network adequacy standards within the Department's approved timeframe.
- vii. The Contractor shall submit updated network adequacy documentation as requested by the Department.
- viii. If the Department determines that the Contractor does not comply with the applicable standards at any time, the Department may require a CAP, sanctions, or any other actions deemed necessary by the Department to ensure compliance with network adequacy standards.
 - a. Sanctions shall be imposed in accordance with guidance issued in accordance with W&I Code section 14197.7 (d)-(f) by the Department.
- 3. Coordination and Continuity of Care (42 CFR §438.208).
 - i. The Contractor shall comply with the care and coordination requirements of this section.
 - ii. The Contractor shall implement procedures to deliver care to and coordinate services for all of its beneficiaries. These procedures shall meet Department requirements and shall do the following:

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- a. Ensure that each beneficiary has an ongoing source of care appropriate to their needs and a person or entity formally designated as primarily responsible for coordinating the services accessed by the beneficiary. The beneficiary shall be provided information on how to contact their designated person or entity.
- b. Coordinate the services the Contractor furnishes to the beneficiary:
 - i. Between settings of care, including appropriate discharge planning for short-term and long-term hospital and institutional stays.
 - ii. With the services the beneficiary receives from any other managed care organization.
 - iii. With the services the beneficiary receives in FFS Medicaid.
 - iv. With the services the beneficiary receives from community and social support providers.
- c. Share with the Department or other managed care organizations serving the beneficiary, the results of any identification and assessment of that beneficiary's needs to prevent duplication of those activities.
- d. Ensure that each provider furnishing services to beneficiaries maintains and shares, as appropriate, a beneficiary health record in accordance with professional standards.
- e. Ensure that in the process of coordinating care, each beneficiary's privacy is protected in accordance with the privacy requirements in 45 CFR parts 160 and 164 subparts A and E and 42 CFR Part 2, to the extent that they are applicable.
- 4. Coverage and Authorization of Services (42 CFR §438.210).

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- i. The Contractor shall furnish medically necessary services covered by this Agreement in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under FFS Medicaid, as set forth in 42 CFR §440.230, and for beneficiaries under the age of 21, as set forth in 42 CFR §441, subpart B.
- ii. The Contractor:
 - a. Shall ensure that the medically necessary services provided are sufficient in amount, duration, or scope to reasonably achieve the purpose for which the services are furnished.
 - Shall not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary service solely because of diagnosis, type of illness, or condition of the beneficiary.
- iii. The Contractor shall limit services in accordance with the criteria established under the State Plan, including medical necessity. The Contractor may place appropriate limits on a service for the purpose of utilization control, provided that:
 - a. The services furnished can reasonably achieve their purpose.
 - b. The services supporting individuals with ongoing or chronic conditions are authorized in a manner that reflects the beneficiary's ongoing need for such services and supports.
- iv. Authorization of services.
 - a. The Contractor and its subcontractors shall have in place, and follow, written authorization policies and procedures.
 - b. The Contractor shall have in effect mechanisms to ensure consistent application of review criteria for authorization decisions.
 - c. The Contractor shall consult with the requesting provider for medical services when appropriate.

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- d. Any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested, shall be made by an individual who has appropriate expertise in addressing the beneficiary's medical and behavioral health.
- e. Notice of Adverse Benefit Determination (NOABD).
 - i. The Contractor shall notify the requesting provider, and give the beneficiary written notice of any decision by the Contractor to deny a service authorization request, or to authorize a service in an amount, duration, or scope that is less than requested. The beneficiary's notice shall meet the requirements of 42 CFR §438.404.
- v. Standard authorization decisions.
 - a. For standard authorization decisions, the Contractor shall provide notice as expeditiously as the beneficiary's condition requires, not to exceed 14 calendar days following receipt of the request for service, with a possible extension of up to 14 additional calendar days when:
 - i. The beneficiary, or the provider, requests extension.
 - ii. The Contractor justifies (to the Department, upon request) a need for additional information and how the extension is in the beneficiary's interest.
- vi. Expedited authorization decisions.

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- a. For cases in which a provider indicates, or the Contractor determines, that following the standard timeframe could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain maximum function, the Contractor shall make an expedited authorization decision and provide notice as expeditiously as the beneficiary's health condition requires, and no later than 72 hours after receipt of the request for service.
- b. The Contractor may extend the 72-hour time period by up to 14 calendar days if the beneficiary requests an extension, or if the Contractor justifies (to the Department, upon request) a need for additional information and how the extension is in the beneficiary's interest.
- vii. Compensation for utilization management activities.
 - a. Consistent with 42 CFR §438.3(i) and 42 CFR §422.208, compensation to individuals or entities that conduct utilization management activities shall not be structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any beneficiary.
- 5. Provider Selection (42 CFR §438.214).
 - i. The Contractor shall implement written policies and procedures for selection and retention of network providers and the implemented policies and procedures, at a minimum, meet the following requirements:
 - a. Credentialing and re-credentialing requirements.
 - The Contractor shall follow the state's established uniform credentialing and recredentialing policy that addresses behavioral, and substance use disorders, outlined in DHCS Information Notice 18-019.
 - ii. The Contractor shall follow a documented process for credentialing and re-credentialing of network providers.

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b. Nondiscrimination.

 The Contractor's network provider selection policies and procedures, consistent with 42 CFR §438.12, shall not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment.

c. Excluded providers.

- The Contractor shall screen and periodically revalidate all network providers in accordance with the requirements of 42 Code of Federal Regulations, part 455, subparts B and E. (42 C.F.R. §438.602(b)).
- ii. Consistent with the requirements of 42 Code of Federal Regulations, part 455.436, the Contractor must confirm the identity and determine the exclusion status of all providers (employees and network providers) and any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of the of the DMC-ODs Network Provider through routine checks of Federal and State databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the Office of Inspector General's List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), as well as the Department's Medi Cal Suspended and Ineligible Provider List (S & I List). (42 C.F.R. §438.602(d)).

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- iii. If the Contractor find a party that is excluded, it must promptly notify the Department (42 C.F.R. §438.608(a)(2),(4)) and the Department will take action consistent with 42 C.F.R. §438.610((d). The Contractor shall not certify or pay any excluded provider with Medi-Cal funds, and any such inappropriate payments or overpayments may be subject to recovery and/or be the basis for other sanctions by the appropriate authority.
- d. Additional Department requirements.
 - i. The Contractor shall comply with any additional requirements established by the Department.
- 6. CMS Interoperability Rule
 - i. The Contractor shall implement and maintain a secure, standards-based Patient Access API and a publicly accessible, standards-based Provider Directory API that can connect to mobile applications and be available through a public-facing digital endpoint on each Contractor's website.
 - ii. The Contractor must also comply with 42 Code of Federal Regulations (CFR) 438.242, 45 CFR 170.215, the provider directory information requirements specified in 42 CFR 438.10, and the public reporting and information blocking components of the CMS Interoperability Rule 45 CFR Part 171.
 - iii. The Contractor shall implement and maintain a Patient Access API that can connect to provider electronic health records and practice management systems, in accordance with requirements specified at 42 CFR section 431.60. The Patient Access API shall permit third-party applications to retrieve, with the approval and at the direction of a beneficiary or beneficiary's authorized representative, data specified in guidance provided by the Department, including, but not limited to BHIN 22-068 through the use of common technologies and without special effort from the beneficiary.

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- iv. The Contractor shall make individual-level United States
 Core Data for Interoperability (USCDI) data that they
 maintain for dates of services on, or after, January 1, 2016,
 available to the beneficiary or their authorized representative
 as follows:
 - a. Adjudicated claims data, including claim data for payment decisions that may be appealed, were appealed, or in the process of appeal, provider remittances, and beneficiary cost- sharing pertaining to such claims within one business day after a claim is processed.
 - Clinical data, including diagnoses and related codes, and laboratory test results within one business day after receiving data from providers.
 - c. Information about covered outpatient drugs and updates to such information, including formulary of prescription drugs, costs to the beneficiary, and preferred drug list information, if applicable within one business day after the effective date of any such information or updates to such information.
 - d. Encounter data from providers compensated on the basis of risk-based capitation payments, as defined in 42 CFR 438.2 within one business day after receiving data from providers.
 - If the Contractor does not reimburse providers using risk-based capitation payments, then Article II.E.5.iv.d of this Agreement does not apply.
- v. In accordance with 42 CFR 431.60(f), the Contractor shall provide, in an easily accessible location on their public websites and/or through other appropriate mechanisms through which they ordinarily communicate with current and former Beneficiary seeking to access their health information, educational resources in non-technical, simple and easy-to-understand language explaining at a minimum:

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- a. General information on steps the Beneficiary may consider taking to help protect the privacy and security of their health information, including factors to consider in selecting an application including secondary uses of data, and the importance of understanding the security and privacy practices of any application to which they entrust their health information; and
- b. An overview of which types of organizations or individuals are and are not likely to be Health Insurance Portability and Accountability Act of 1996 (HIPAA) covered entities, the oversight responsibilities of the Health and Human Services Office for Civil Rights (OCR) and the Federal Trade Commission (FTC), and how to submit a complaint to the OCR and FTC. Educational resources must be provided to beneficiaries according to the information requirements of CFR 438.10.
- 7. Confidentiality (42 CFR §438.224).
 - i. For medical records and any other health and enrollment information that identifies a particular beneficiary, the Contractor shall use and disclose such individually identifiable health information in accordance with the privacy requirements in 45 CFR parts 160 and 164, subparts A and E and 42 CFR Part 2, to the extent that these requirements are applicable.
- 8. Grievance and Appeal Systems (42 CFR §438.228).
 - The Contractor shall have in effect, a grievance and appeal system that meets the requirements outlined in Article.II.G of this Agreement.
 - ii. The Contractor shall be responsible for issuing any NOABD under 42 CFR Part 431, subpart E. The Department shall conduct random reviews of the Contractor and its providers and subcontractors to ensure that they are notifying beneficiaries in a timely manner.
- Subcontractual Relationships and Delegation (42 CFR §438.230).
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- The requirements of this section apply to any contract or written arrangement that the Contractor has with any subcontractor.
- ii. Notwithstanding any relationship(s) that Contractor may have with any subcontractor, the Contractor shall maintain ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of this Agreement.
- iii. All contracts or written arrangements between the Contractor and any subcontractor shall specify the following:
 - a. The delegated activities or obligations, and related reporting responsibilities, are specified in the contract or written agreement.
 - The subcontractor agrees to perform the delegated activities and reporting responsibilities specified in compliance with the Contractor's Agreement obligations.
 - c. The contract or written arrangement shall either provide for revocation of the delegation of activities or obligations, or specify other remedies in instances where the Department or the Contractor determine that the subcontractor has not performed satisfactorily.
 - d. The subcontractor agrees to comply with all applicable Medicaid laws, regulations, including applicable sub-regulatory guidance and contract provisions.
 - e. The subcontractor agrees:

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- i. The Department, CMS, the Health and Human Services (HHS) Inspector General, the Comptroller General, or their designees have the right to audit, evaluate, and inspect any books, records, contracts, computer or other electronic systems of the subcontractor, or of the subcontractor's Contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under this Agreement at any time.
- ii. The subcontractor will make available, for purposes of an audit, evaluation, or inspection, its premises, physical facilities, equipment, books, records, contracts, computer or other electronic systems relating to its Medicaid beneficiaries.
- iii. The Department, CMS, the HHS Inspector General, the Comptroller General, or their designees' right to audit the subcontractor will exist through ten years from the final date of the contract period or from the date of completion of any audit, whichever is later.
- iv. If the Department, CMS, or the HHS
 Inspector General determines that there is a
 reasonable possibility of fraud or similar risk,
 the Department, CMS, or the HHS Inspector
 General may inspect, evaluate, and audit the
 subcontractor at any time.

10. Practice Guidelines (42 CFR §438.236).

- The Contractor shall adopt practice guidelines that meet the following requirements:
 - a. Are based on valid and reliable clinical evidence or a consensus of providers in the particular field.
 - b. Consider the needs of the Contractor's beneficiaries.
 - c. Are adopted in consultation with network providers.

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- d. Are reviewed and updated periodically as appropriate.
- ii. The Contractor shall disseminate the guidelines to all affected providers and, upon request, to beneficiaries and potential beneficiaries.
- iii. The Contractor shall ensure that all decisions for utilization management, beneficiary education, coverage of services, and other areas to which the guidelines apply are consistent with the guidelines.
- 11. Health Information Systems (42 CFR §438.242).
 - i. The Contractor shall maintain a health information system that collects, analyzes, integrates, and reports data and can achieve the objectives of this part. The systems shall provide information on areas including, but not limited to, utilization, claims, and grievances and appeals.
 - ii. The Contractor shall comply with section 6504(a) of the Affordable Care Act.
 - iii. The Contractor shall collect data on beneficiary and provider characteristics as specified by the Department, and on all services furnished to beneficiaries through an encounter data system or other methods as may be specified by the Department.
 - iv. The Contractor shall ensure that data received from providers is accurate and complete by:
 - Verifying the accuracy and timeliness of reported data, including data from network providers the Contractor is compensating.
 - b. Screening the data for completeness, logic, and consistency.
 - c. Collecting data from providers in standardized formats to the extent feasible and appropriate, including secure information exchanges and technologies utilized for Department Medicaid quality improvement and care coordination efforts.
 - v. The Contractor shall make all collected data available to the Department and upon request to CMS.

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- vi. The Contractor shall collect and maintain sufficient beneficiary encounter data to identify the provider who delivers any item(s) or service(s) to beneficiaries.
- vii. The Contractor shall submit beneficiary encounter data to the Department, annually and upon request, as specified by CMS and the Department, based on program administration, oversight, and program integrity needs.
- viii. The Contractor shall submit all beneficiary encounter data, including allowed amount and paid amount, that the Department is required to report to CMS under 42 CFR §438.818.
- ix. The Contractor shall submit encounter data to the Department in standardized ASC X12N 837 and NCPDP formats, and the ASC X12N 835 format as appropriate.

F. Quality Measurement and Improvement External Quality Review

- 1. Quality Assessment and Performance Improvement Program (PIP) (42 CFR §438.330).
 - The Contractor shall establish and implement an ongoing comprehensive quality assessment and performance improvement program for the services it furnishes to its beneficiaries.
 - ii. After consulting with states and other stakeholders and providing public notice and opportunity to comment, CMS may specify performance measures and performance improvement projects (PIPs), which shall be included in the standard measures identified and PIPs required by the Department. The Department may request an exemption from including the performance measures or PIPs established under this section by submitting a written request to CMS explaining the basis for such request.
 - iii. The Contractor's comprehensive quality assessment and performance improvement program shall include at least the following elements:
 - a. Performance improvement projects.
 - b. Collection and submission of performance measurement.

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- c. Mechanisms to detect both underutilization and overutilization of services.
- iv. The Department shall identify standard performance measures, including those performance measures that may be specified by CMS, relating to the performance of the Contractor.
- v. Annually, the Contractor shall:
 - Measure and report to the Department on its performance, using the standard measures required by the Department.
 - Submit to the Department data, specified by the Department, which enables the Department to calculate Contractor's performance using the standard measures identified by the Department.
 - c. Perform a combination of the activities described above.
- vi. Performance improvement projects.
 - a. The Contractor shall conduct performance improvement projects, including any performance improvement projects required by CMS that focus on both clinical and nonclinical areas.
 - b. Each performance improvement project shall be designed to achieve significant improvement, sustained over time, in health outcomes and beneficiary satisfaction, and shall include the following elements:
 - i. Measurement of performance using objective quality indicators.
 - ii. Implementation of interventions to achieve improvement in the access to and quality of care.
 - iii. Evaluation of the effectiveness of the interventions based on the performance measures.
 - iv. Planning and initiation of activities for increasing or sustaining improvement.

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- c. The Contractor shall report the status and results of each project conducted to the Department as requested, but not less than once per year.
- 2. Department Review of the Contractor's Accreditation Status (42 CFR §438.332).
 - The Contractor shall inform the Department if it has been accredited by a private independent accrediting entity. The Contractor is not required to obtain accreditation by a private independent accrediting entity.
 - ii. If the Contractor has received accreditation by a private independent accrediting entity, then the Contractor shall authorize the private independent accrediting entity to provide the Department a copy of its most recent accreditation review, including:
 - a. Accreditation status, survey type, and level (as applicable).
 - Accreditation results, including recommended actions or improvements, corrective action plans, and summaries of findings.
 - c. Expiration date of the accreditation.
 - iii. The Department shall:
 - a. Make the accreditation status for the Contractor available on the website required under 42 CFR §438.10(c)(3), including whether the Contractor has been accredited and, if applicable, the name of the accrediting entity, accreditation program, and accreditation level.
 - b. Update this information at least annually.

G. Grievance and Appeal System

- 1. General Requirements (42 CFR §438.402).
 - i. The Contractor shall have a grievance and appeal system in place for beneficiaries.
 - ii. The Contractor shall have only one level of appeal for beneficiaries.
 - iii. Filing requirements:
 - a. Authority to file.

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- i. A beneficiary may file a grievance and request an appeal with the Contractor. A beneficiary may request a state hearing after receiving notice under 42 CFR §438.408 that the adverse benefit determination is upheld.
 - 1. In the case that the Contractor fails to adhere to the notice and timing requirements in 42 CFR §438.408, the beneficiary is deemed to have exhausted the Contractor's appeals process. The beneficiary may initiate a state hearing.
 - 2. The Department may offer and arrange for an external medical review if the following conditions are met.
 - i. The review shall be at the beneficiary's option and shall not be required before, or used as a deterrent to, proceeding to the state hearing.
 - ii. The review shall be independent of both the Department and the Contractor.
 - iii. The review shall be offered without any cost to the beneficiary.
 - iv. The review shall not extend any of the timeframes specified in 42 CFR §438.408 and shall not disrupt the continuation of benefits in 42 CFR §438.420.

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ii. With the written consent of the beneficiary, a provider or an authorized representative may request an appeal or file a grievance, or request a state hearing, on behalf of a beneficiary, with the exception that providers cannot request continuation of benefits as specified in 42 CFR §438.420(b)(5).

b. Timing:

- i. Grievance:
 - The beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, may file a grievance with the Contractor at any time.

ii. Appeal:

1. The Contractor shall allow the beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, to file a request for an appeal to the Contractor within 60 calendar days from the date on the NOABD.

c. Procedures:

- i. Grievance:
 - 1. The beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, may file a grievance either orally or in writing and, as determined by the Department, either with the Department or with the Contractor.
- ii. Appeal:

- 1. The beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, may request an appeal either orally or in writing. Further, unless an expedited resolution is requested, an oral appeal shall be followed by a written, signed appeal.
- 2. Timely and Adequate Notice of Adverse Benefit Determination (42 CFR §438.404).
 - i. Notice.
 - a. The Contractor shall give beneficiaries timely and adequate notice of an adverse benefit determination, in writing, and consistent with the requirements below and in 42 CFR §438.10.
 - ii. Content of notice.
 - a. The notice shall explain the following:
 - The adverse benefit determination the Contractor has made or intends to make.
 - ii. The reasons for the adverse benefit determination, including the right of the beneficiary to be provided upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the beneficiary's adverse benefit determination. Such information includes DMC-ODS criteria for services, and any processes, strategies, or evidentiary standards used in setting coverage limits.

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- iii. The beneficiary's right to request an appeal of the Contractor's adverse benefit determination, including information on exhausting the Contractor's one level of appeal described at 42 CFR §438.402(b) and the right to request a state hearing consistent with 42 CFR §438.402(c).
- iv. The procedures for exercising these appeal rights.
- v. The circumstances under which an appeal process can be expedited and how to request it.
- vi. The beneficiary's right to have benefits continue pending resolution of the appeal, how to request that benefits be continued, and the circumstances, consistent with state policy, under which the beneficiary may be required to pay the costs of these services.
- iii. Timing of notice.
 - a. The Contractor shall mail the notice within the following timeframes:
 - At least ten days before the date of the adverse benefit determination, when the adverse benefit determination is a termination, suspension, or reduction of previously authorized Medicaid-covered services.
 - ii. For denial of payment, at the time of any adverse benefit determination affecting the claim.
 - iii. For standard authorization decisions that deny or limit services, as expeditiously as the beneficiary's condition requires within state-established timeframes that shall not exceed 14 calendar days following receipt of the request for service.

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- The Contractor shall be allowed to extend the 14-calendar day NOABD timeframe for standard authorization decisions that deny or limit services up to 14 additional calendar days if the beneficiary or the provider requests an extension.
- 2. The Contractor shall be allowed to extend the 14-calendar day NOABD timeframe for standard authorization decisions that deny or limit services up to 14 additional calendar days if the Contractor justifies a need (to the Department, upon request) for additional information and shows how the extension is in the beneficiary's best interest. Consistent with 42 CFR §438.210(d)(1)(ii), the Contractor shall:
 - Give the beneficiary written notice of the reason for the decision to extend the timeframe and inform the beneficiary of the right to file a grievance if they disagree with that decision.
 - ii. Issue and carry out its determination as expeditiously as the beneficiary's health condition requires and no later than the date the extension expires.
- iv. For service authorization decisions not reached within the timeframes specified in 42 CFR §438.210(d) (which constitutes a denial and is thus an adverse benefit determination), on the date that the timeframes expire.

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- v. For expedited service authorization decisions, within the timeframes specified in 42 CFR §438.210(d)(2).
- b. The Contractor shall be allowed to mail the NOABD as few as five days prior to the date of action if the Contractor has facts indicating that action should be taken because of probable fraud by the beneficiary, and the facts have been verified, if possible, through secondary sources.
- c. The Contractor shall mail the NOABD by the date of the action when any of the following occur:
 - i. The recipient has died.
 - ii. The beneficiary submits a signed written statement requesting service termination.
 - iii. The beneficiary submits a signed written statement including information that requires service termination or reduction and indicates that they understand that service termination or reduction will result.
 - iv. The beneficiary has been admitted to an institution where they are ineligible under the plan for further services.
 - v. The beneficiary's address is determined unknown based on returned mail with no forwarding address.
 - vi. The beneficiary is accepted for Medicaid services by another local jurisdiction, state, territory, or commonwealth.
 - vii. A change in the level of medical care is prescribed by the beneficiary's physician.
 - viii. The notice involves an adverse determination with regard to preadmission screening requirements of section 1919(e)(7) of the Act.
 - ix. The transfer or discharge from a facility will occur in an expedited fashion.
- 3. Handling of Grievances and Appeals (42 CFR §438.406).

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- i. In handling grievances and appeals, the Contractor shall give beneficiaries any reasonable assistance in completing forms and taking other procedural steps related to a grievance or appeal. This includes, but is not limited to, auxiliary aids and services upon request, such as providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capability.
- ii. The Contractor's process for handling beneficiary grievances and appeals of adverse benefit determinations shall:
 - a. Acknowledge receipt of each grievance and appeal within five calendar days.
 - b. Ensure that the individuals who make decisions on grievances and appeals are individuals:
 - Who, were neither involved in any previous level of review or decision-making nor a subordinate of any such individual.
 - ii. Who, if deciding any of the following, are individuals who have the appropriate clinical expertise, as determined by the Department, in treating the beneficiary's condition or disease.
 - An appeal of a denial that is based on lack of medical necessity.
 - A grievance regarding denial of expedited resolution of an appeal.
 - 3. A grievance or appeal that involves clinical issues.
 - iii. Who, take into account all comments, documents, records, and other information submitted by the beneficiary or their representative without regard to whether such information was submitted or considered in the initial adverse benefit determination.
 - c. Provide that oral inquiries seeking to appeal an adverse benefit determination are treated as appeals.

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- d. Provide the beneficiary a reasonable opportunity, in person and in writing, to present evidence and testimony and make legal and factual arguments. The Contractor shall inform the beneficiary of the limited time available for this sufficiently in advance of the resolution timeframe for appeals as specified in 42 CFR §438.408(b) and (c) in the case of expedited resolution.
- e. Provide the beneficiary and their representative the beneficiary's case file, including medical records, other documents and records, and any new or additional evidence considered, relied upon, or generated by the Contractor (or at the direction of the Contractor) in connection with the appeal of the adverse benefit determination. This information shall be provided free of charge and sufficiently in advance of the resolution timeframe for appeals as specified in 42 CFR §438.408(b) and (c).
- f. Include, as parties to the appeal:
 - i. The beneficiary and their representative.
 - ii. The legal representative of a deceased beneficiary's estate.
- 4. Resolution and Notification: Grievances and Appeals (42 CFR §438.408).
 - i. The Contractor shall resolve each grievance and appeal, and provide notice, as expeditiously as the beneficiary's health condition requires, within the following timeframes:
 - a. Standard resolution of grievances: 90 calendar days from the day the Contractor receives the grievance.
 - b. Standard resolution of appeals: 30 calendar days from the day the Contractor receives the appeal. This timeframe may be extended in the manner described below.
 - c. Expedited resolution of appeals: 72 hours after the Contractor receives the appeal. This timeframe may be extended under in the manner described below.

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- ii. Extension of timeframes.
 - a. The Contractor may extend the timeframes for standard and expedited resolution of grievances and appeals by up to 14 calendar days if:
 - i. The beneficiary requests the extension; or
 - ii. The Contractor shows (to the satisfaction of the Department, upon its request) that there is need for additional information and how the delay is in the beneficiary's interest.
- iii. If the Contractor extends the timeframes not at the request of the beneficiary, it shall complete all the following:
 - a. Make reasonable efforts to give the beneficiary prompt oral notice of the delay.
 - b. Within two calendar days, give the beneficiary written notice of the reason for the decision to extend the timeframe and inform the beneficiary of the right to file a grievance if they disagree with that decision.
 - Resolve the appeal as expeditiously as the beneficiary's health condition requires and no later than the date the extension expires.
- iv. If the Contractor fails to adhere to the notice and timing requirements in this section, the beneficiary is deemed to have exhausted the Contractor's appeals process. The beneficiary may initiate a state hearing.
- v. Format of notice:
 - a. Grievances.
 - i. The Contractor shall notify the beneficiary of the resolution of a grievance and ensure that such methods meet, at a minimum, the standards described at 42 CFR §438.10.
 - b. Appeals.
 - i. For all appeals, the Contractor shall provide written notice of resolution in a format and language that, at a minimum, meet the standards described at 42 CFR §438.10.

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- ii. For notice of an expedited resolution, the Contractor shall also make reasonable efforts to provide oral notice.
- vi. The written notice of the resolution shall include the following:
 - a. The results of the resolution process and the date it was completed.
 - b. For appeals not resolved wholly in favor of the beneficiaries:
 - i. The right to request a state hearing.
 - ii. How to make the request a state hearing.
 - iii. The right to request and receive benefits, while the hearing is pending and how to make the request.
 - iv. That the beneficiary may, consistent with state policy, be held liable for the cost of those benefits if the hearing decision upholds the Contractor's adverse benefit determination.
- vii. Requirements for state hearings:
 - a. A beneficiary may request a state hearing only after receiving notice that the Contractor is upholding the adverse benefit determination.
 - b. If the Contractor fails to adhere to the notice and timing requirements in 42 CFR §438.408, then the beneficiary is deemed to have exhausted the Contractor's appeals process. The beneficiary may initiate a state hearing.
 - c. The Department shall offer and arrange for an external medical review when the following conditions are met:
 - The review shall be at the beneficiary's request and shall not be required before, or used as a deterrent to, proceeding to the state hearing.

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- ii. The review shall be independent of both the Department and the Contractor.
- iii. The review shall be offered without any cost to the beneficiary.
- iv. The review shall not extend any of the timeframes specified in 42 CFR §438.408 and shall not disrupt the continuation of benefits in 42 CFR §438.420.

d. State hearing.

- The beneficiary shall have no less than 90 calendar days and no more than 120 calendar days from the date of the Contractor's Notice of Appeal Resolution to request a state hearing.
- ii. The parties to the state hearing include the Contractor, as well as the beneficiary and their representative or the representative of a deceased beneficiary's estate.
- 5. Expedited Resolution of Appeals (42 CFR §438.410).
 - i. The Contractor shall establish and maintain an expedited review process for appeals when the Contractor determines (for a request from the beneficiary) or the provider indicates (in making the request on the beneficiary's behalf or supporting the beneficiary's request) that taking the time for a standard resolution could seriously jeopardize the beneficiary's life, physical or mental health, or ability to attain, maintain, or regain maximum function.
 - ii. The Contractor shall ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a beneficiary's appeal.
 - iii. If the Contractor denies a request for expedited resolution of an appeal, it shall:
 - a. Transfer the appeal to the timeframe for standard resolution in accordance with 42 CFR §438.408(b)(2).
 - b. Follow the requirements in 42 CFR §438.408(c)(2).

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- 6. Information About the Grievance and Appeal System to Providers and Subcontractors (42 CFR §438.414).
 - i. The Contractor shall provide the information specified in 42 CFR §438.10(g)(2)(xi) about the grievance and appeal system to all providers and subcontractors at the time they enter into a contract.
- 7. Recordkeeping Requirements (42 CFR §438.416).
 - i. The Contractor shall maintain records of grievances and appeals and shall review the information as part of its ongoing monitoring procedures, as well as for updates and revisions to the Department quality strategy.
 - ii. The record of each grievance or appeal shall contain, at a minimum, all the following information:
 - a. A general description of the reason for the appeal or grievance.
 - b. The date received.
 - c. The date of each review or, if applicable, review meeting.
 - d. Resolution at each level of the appeal or grievance, if applicable.
 - e. Date of resolution at each level, if applicable.
 - f. Name of the covered person for whom the appeal or grievance was filed.
 - iii. The record shall be accurately maintained in a manner accessible to the Department and available upon request to CMS.
- 8. Continuation of Benefits While the Contractor's Appeal and the State Hearing Are Pending (42 CFR §438.420).
 - Timely files mean files for continuation of benefits on or before the later of the following:
 - a. Within ten calendar days of Contractor sending the NOABD.
 - b. The intended effective date of the Contractor's proposed adverse benefit determination.
 - ii. The Contractor shall continue the beneficiary's benefits if all of the following occur:

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- a. The beneficiary files the request for an appeal timely in accordance with 42 CFR §438.402(c)(1)(ii) and (c)(2)(ii).
- b. The appeal involves the termination, suspension, or reduction of previously authorized services.
- c. An authorized provider ordered the services.
- d. The period covered by the original authorization has not expired.
- e. The beneficiary timely files for continuation of benefits.
- iii. At the beneficiary's request, the Contractor shall continue or reinstate the beneficiary's benefits while the appeal or state hearing is pending, the benefits shall be continued until one of following occurs:
 - a. The beneficiary withdraws the appeal or request for state hearing.
 - b. The beneficiary fails to request a state hearing and continuation of benefits within ten calendar days after the Contractor sends the notice of an adverse resolution to the beneficiary's appeal under 42 CFR §438.408(d)(2).
 - c. A state hearing officer issues a hearing decision adverse to the beneficiary.
- iv. If the final resolution of the appeal or state hearing is adverse to the beneficiary, that is, upholds the Contractor's adverse benefit determination, the Contractor may, consistent with the Department's usual policy on recoveries under 42 CFR §431.230(b) and as specified in this Agreement, recover the cost of services furnished to the beneficiary while the appeal and state hearing was pending, to the extent that they were furnished solely because of the requirements of this section.
- 9. Effectuation of Reversed Appeal Resolutions (42 CFR §438.424).

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- i. The Contractor shall authorize or provide the disputed services promptly, and as expeditiously as the beneficiary's health condition requires (but no later than 72 hours from the date it receives notice reversing the determination) if the services were not furnished while the appeal was pending and if the Contractor or state hearing officer reverses a decision to deny, limit, or delay services.
- ii. The Contractor shall pay for disputed services received by the beneficiary while the appeal is pending, unless state policy and regulations provide for the state to cover the cost of such services, when the Contractor or state hearing officer reverses a decision to deny authorization of the services.

H. Additional Program Integrity Safeguards

- 1. Basic Rule (42 CFR §438.600).
 - i. As a condition for receiving payment under a Medicaid managed care program, the Contractor shall comply with the requirements in 42 CFR §§438.604, 438.606, 438.608 and 438.610, as applicable and as outlined below.
- 2. State Responsibilities (42 CFR §438.602).
 - i. Monitoring Contractor compliance.
 - a. Consistent with 42 CFR §438.66, the Department shall monitor the Contractor's compliance, as applicable, with 42 CFR §\$438.604, 438.606, 438.608, 438.610, 438.230, 438.808, 438.900 et seq.
 - ii. Screening, enrollment, and revalidation of providers.
 - a. The Department shall screen and enroll, and revalidate every five years, all the Contactor's network providers, in accordance with the requirements of 42 CFR, Part 455, subparts B and E. This provision does not require the network provider to render services to FFS beneficiaries.
 - iii. Ownership and control information.
 - a. The Department shall review the ownership and control disclosures submitted by the Contractor, and any subcontractors as required in 42 CFR §438.608(c).

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- iv. Federal database checks.
 - a. Consistent with the requirements in 42 CFR §455.436, the Department shall confirm the identity and determine the exclusion status of the Contractor, any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of the Contractor through routine checks of Federal databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), and any other databases as the state or Secretary may prescribe. These databases shall be consulted upon contracting and no less frequently than monthly thereafter. If the Department finds a party that is excluded, it shall promptly notify the Contractor and take action consistent with 42 CFR §438.610(c).
- v. Periodic audits.
 - a. The Department shall periodically, but no less frequently than once every three years, conduct, or contract for the conduct of, an independent audit of the accuracy, truthfulness, and completeness of the encounter and financial data submitted by, or on behalf of, the Contractor.
- vi. Whistleblowers.
 - a. The Department shall receive and investigate information from whistleblowers relating to the integrity of the Contractor, subcontractors, or network providers receiving Federal funds under 42 CFR, Part 438.
- vii. Transparency.
 - a. The Department shall post on its website, as required in 42 CFR §438.10(c)(3), the following documents and reports:
 - i. This Agreement.

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- ii. The data at 42 CFR §438.604(a)(5).
- iii. The name and title of individuals included in 42 CFR §438.604(a)(6).
- iv. The results of any audits performed pursuant Article II.H.2.v of this Agreement.
- viii. Contracting integrity.
 - a. The Department shall have in place conflict of interest safeguards described in 42 CFR §438.58 and shall comply with the requirement described in section 1902(a)(4)(C) of the Act applicable to contracting officers, employees, or independent Contractors.
- ix. Entities located outside of the U.S.
 - a. The Department shall ensure that the Contractor is not located outside of the United States and that no claims paid by the Contractor to a network provider, out-of-network provider, subcontractor, or financial institution located outside of the U.S. are considered in the development of actuarially sound capitation rates.
- 3. Data, Information, and Documentation that shall be submitted (42 CFR §438.604).
 - The Contractor shall submit to the Department the following data:
 - a. Encounter data in the form and manner described in 42 CFR §438.818.
 - b. Documentation described in 42 CFR §438.207(b) on which the Department bases its certification that the Contractor has complied with the Department's requirements for availability and accessibility of services, including the adequacy of the provider network, as set forth in 42 CFR §438.206.
 - c. Information on ownership and control described in 42 CFR §455.104 from the Contractor's subcontractors as governed by 42 CFR §438.230.
 - d. The annual report of overpayment recoveries as required in 42 CFR §438.608(d)(3).

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- ii. In addition to the data, documentation, or information above, the Contractor shall submit any other data, documentation, or information relating to the performance of the Contractor's program integrity safeguard obligations required by the Department or the Secretary.
- 4. Source, Content, and Timing of Certification (42 CFR §438.606).
 - i. The data, documentation, or information specified in 42 CFR §438.604, shall be certified by either the Contractor's Chief Executive Officer, Chief Financial Officer, or an individual who reports directly to the Chief Executive Officer or Chief Financial Officer with delegated authority to sign for the Chief Executive Officer or Chief Financial Officer so that the Chief Executive Officer or Chief Financial Officer is ultimately responsible for the certification.
 - ii. The certification shall attest that, based on best information, knowledge, and belief, the data, documentation, and information specified in 42 CFR §438.604 is accurate, complete, and truthful.
 - iii. The Contractor shall submit the certification concurrently with the submission of the data, documentation, or information required in 42 CFR §438.604(a) and (b).
- 5. Program Integrity Requirements (42 CFR §438.608).
 - i. The Contractor, and its subcontractors to the extent that the subcontractors are delegated responsibility by the Contractor for coverage of services and payment of claims under this Agreement, shall implement and maintain arrangements or procedures that are designed to detect and prevent fraud, waste, or abuse.
 - ii. The arrangements or procedures shall include the following:
 - a. A compliance program that includes, at a minimum, all the following elements:

- i. Written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable requirements and standards under the contract, and all applicable Federal and state requirements.
- ii. The designation of a Compliance Officer who is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of this Agreement and who reports directly to the County Behavioral Health Director and the Board of Supervisors.
- iii. The establishment of a Regulatory Compliance Committee on the Board of Supervisors and at the senior management level charged with overseeing the organization's compliance program and its compliance with the requirements under this Agreement.
- iv. A system for training and education for the Compliance Officer, the organization's senior management, and the organization's employees for the Federal and state standards and requirements under this Agreement.
- v. Effective lines of communication between the compliance officer and the organization's employees.
- vi. Enforcement of standards through wellpublicized disciplinary guidelines.

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- vii. Establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under this Agreement.
- b. Provision for prompt reporting of all overpayments identified or recovered, specifying the overpayments due to potential fraud, to the Department.
- c. Provision for prompt notification to the Department when it receives information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including all the following:
 - i. Changes in the beneficiary's residence.
 - ii. The death of a beneficiary.
- d. Provision that the Contractor shall submit a notification to the Department when it receives information about a change in a network provider's circumstances that may affect the network provider's eligibility to participate in the managed care program, including the termination of the provider agreement with the Contractor.
- e. Provision for a method to verify, by sampling or other methods, whether services that have been represented to have been delivered by network providers were received by beneficiaries and the application of such verification processes on a regular basis.

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- f. If the Contractor makes or receives annual payments under this Agreement of at least \$5,000,000, provision for written policies for all employees of the entity, and of any subcontractor or agent, that provide detailed information about the False Claims Act and other Federal and state laws described in section 1902(a)(68) of the Act, including information about rights of employees to be protected as whistleblowers.
- g. Provision for the prompt referral of any potential fraud, waste, or abuse that the Contractor identifies to the Department Medicaid program integrity unit or any potential fraud directly to the State Medicaid Fraud Control Unit.
- h. Provision for the Contractor's suspension of payments to a network provider for which the Department determines there is a credible allegation of fraud in accordance with 42 CFR §455.23.
- iii. The Contractor shall ensure that all network providers are enrolled with the Department as Medicaid providers consistent with the provider disclosure, screening and enrollment requirements of 42 CFR part 455, subparts B and E. This provision does not require the network provider to render services to FFS beneficiaries.
- iv. The Contractor and all its subcontractors shall provide reports to the Department within 60 calendar days when it has identified payments in excess of amounts specified in this Agreement.
- v. Treatment of recoveries made by the Contractor of overpayments to providers.
 - a. The Contractor shall specify in accordance with this Exhibit A, Attachment I and Exhibit B of this Agreement:

- The retention policies for the treatment of recoveries of all overpayments from the Contractor to a provider, including specifically the retention policies for the treatment of recoveries of overpayments due to fraud, waste, or abuse.
- ii. The process, timeframes, and documentation required for reporting the recovery of all overpayments.
- iii. The process, timeframes, and documentation required for payment of recoveries of overpayments to the state in situations where the Contractor is not permitted to retain some or all the recoveries of overpayments.
- iv. This provision does not apply to any amount of a recovery to be retained under False Claims Act cases or through other investigations.
- b. The Contractor shall have a mechanism for a network provider to report to the Contractor when it has received an overpayment, to return the overpayment to the Contractor within 60 calendar days after the date on which the overpayment was identified, and to notify the Contractor in writing of the reason for the overpayment.
- c. The Contractor shall annually report to the Department on their recoveries of overpayments.
- 6. Prohibited Affiliations (42 CFR §438.610).
 - i. The Contractor and its subcontractors shall not knowingly have a relationship of the type described in paragraph (iii) of this subsection with the following:

- a. An individual or entity that is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549.
- An individual or entity who is an affiliate, as defined in the Federal Acquisition Regulation at 48 CFR 2.101, of a person described in paragraph (a)(1) of this section.
- ii. The Contractor and its subcontractors shall not have a relationship with an individual or entity that is excluded from participation in any Federal Health Care Program under section 1128 or 1128A of the Act.
- iii. The relationships described in paragraph (i) of this section, are as follows:
 - a. A director, officer, or partner of the Contractor.
 - b. A subcontractor of the Contractor, as governed by 42 CFR §438.230.
 - c. A person with beneficial ownership of five percent or more of the Contractor's equity.
 - d. A network provider or person with an employment, consulting, or other arrangement with the Contractor for the provision of items and services that are significant and material to the Contractor's obligations under this Agreement.
- iv. If the Department finds that the Contractor is not in compliance, the Department:
 - a. Shall notify the Secretary of the noncompliance.
 - b. May continue an existing Agreement with the Contractor unless the Secretary directs otherwise.

- c. May not renew or otherwise extend the duration of an existing Agreement with the Contractor unless the Secretary provides to the state and to Congress a written statement describing compelling reasons that exist for renewing or extending the Agreement despite the prohibited affiliations.
- d. Nothing in this section shall be construed to limit or otherwise affect any remedies available to the U.S. under sections 1128, 1128A or 1128B of the Act.
- v. The Contractor shall provide the Department with written disclosure of any prohibited affiliation identified by the Contractor or any of its subcontractors.
- 7. Disclosures on Information and Ownerships Control (42 CFR §455.104).
 - i. The Contractor and its subcontractors shall provide the following disclosures through the DMC certification process described in Article III.K of the Agreement:
 - a. The name and address of any person (individual or corporation) with an ownership or control interest in the Contractor. The address for corporate entities shall include as applicable primary business address, every business location, and P.O. Box address.
 - b. Date of birth and Social Security Number (in the case of an individual).
 - c. Other tax identification number (in the case of a corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) or in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a five percent or more interest.

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- d. Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a five percent or more interest is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling.
- e. The name of any other disclosing entity (or fiscal agent or managed care entity) in which an owner of the disclosing entity (or fiscal agent or managed care entity) has an ownership or control interest.
- f. The name, address, date of birth, and Social Security Number of any managing employee of the disclosing entity (or fiscal agent or managed care entity).
- ii. Disclosures are due at any of the following times:
 - a. Upon the Contractor submitting the proposal in accordance with the Department's procurement process.
 - b. Upon the Contractor executing this Agreement with the Department.
 - c. Upon renewal or extension of this Agreement.
 - d. Within 35 days after any change in ownership of the Contractor.
- iii. The Contractor shall provide all disclosures to the Department.
- iv. Federal Financial Participation (FFP) shall be withheld from the Contractor if it fails to disclose ownership or control information as required by this section.
- v. For the purposes of this section "person with an ownership or control interest" means a person or corporation that:

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- Has an ownership interest totaling five percent or more in a disclosing entity.
- b. Has an indirect ownership interest equal to five percent or more in a disclosing entity.
- c. Has a combination of direct and indirect ownership interests equal to five percent or more in a disclosing entity.
- d. Owns an interest of five percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least five percent of the value of the property or assets of the disclosing entity.
- e. Is an officer or director of a disclosing entity that is organized as a corporation.
- f. Is a partner in a disclosing entity that is organized as a partnership.

I. Conditions for FFP

- 1. Costs under this Nonrisk Contract (42 CFR §438.812).
 - The amount the Department pays for the furnishing of medical services to eligible beneficiaries is a medical assistance cost.
 - ii. The amount the Department pays for the Contractor's performance of other functions is an administrative cost.

J. Parity in Mental Health and Substance Use Disorder Benefits (42 CFR §438.900 et seq.)

- 1. General Parity Requirement
 - To ensure compliance with the parity requirements set forth in 42 CFR §438.900 et seq., the Contractor shall not impose, or allow any of its subcontractors to impose, any financial requirements, Quantitative Treatment Limitations, or Non-Quantitative Treatment Limitations in any classification of benefit (inpatient, outpatient, emergency care, or prescription drugs) other than those limitations permitted and outlined in this Agreement.

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- ii. The Contractor shall not apply any financial requirement or treatment limitation to substance use disorder services in any classification of benefit that is more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/surgical benefits in the same classification of benefit furnished to beneficiaries (whether or not the benefits are furnished by the Contractor) (42 CFR 438.910(b)(1)).
- The Contractor shall provide substance use disorder services to beneficiaries in every classification in which medical/surgical benefits are provided (42 CFR 438.910(b)(2)).

2. Quantitative Limitations

 The Contractor shall not apply any cumulative financial requirement for substance use disorder services in a classification that accumulates separately from any established for medical/surgical services in the same classification (42 CFR 438.910(c)(3)).

3. Non-Quantitative Limitations

i. The Contractor shall not impose a non-quantitative treatment limitation for substance use disorder benefits in any classification unless, under the policies and procedures of the Contractor as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the non-quantitative treatment limitation to substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for medical/surgical benefits in the classification (42 CFR §438.910(d)).

- ii. The Contractor shall use processes, strategies, evidentiary standards, or other factors in determining access to out-of-network providers for substance use disorder services that are comparable to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors in determining access to out-of-network providers for medical/surgical benefits (42 CFR §438.910(d)(3)).
- K. Nondiscrimination Requirements, Language Assistance, and Information Access for Individuals with Limited English Proficiency and/or Disabilities (42 CFR § 438.10; W&I Code section 14029.91; Government Code (Gov. Code) § 11135; 28 CFR §§ 35.160-35.164; 28 CFR § 36.303; 45 CFR § 92.101; 45 CFR § 92.102; 45 CFR § 92.202)
 - The Contractor shall comply with all applicable state and federal requirements regarding nondiscrimination, language assistance, information access, including but not limited to, the Dymally-Alatorre Bilingual Services Act, section 1557 of the Patient Protection and Affordable Care Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act.
 - 2. DHCS shall use the following methodology to identify the prevalent non–English languages spoken by beneficiaries and potential beneficiaries throughout the State, and in the Contractor's service area:
 - i. A population group of mandatory eligible beneficiaries residing in the Contractor's service area who indicate their primary language as a language other than English, and that meet a numeric threshold of 3,000 or 5% of the eligible beneficiary population, whichever is lower; and
 - ii. A population group of mandatory eligible beneficiaries residing in the Contractor's service area who indicate their primary language as a language other than English and who meet the concentration standards of 1,000 in a single zip code or 1,500 in two contiguous zip codes.
 - Nondiscrimination Notice

- The Contractor shall post a DHCS-approved nondiscrimination notice that informs beneficiaries, potential beneficiaries, and the public about nondiscrimination, protected characteristics, and accessibility requirements, and conveys the Contractor's compliance with the requirements.
- ii. The nondiscrimination notice shall be posted in at least a 12-point font and be included in any documents that are vital or critical to obtaining services and/or benefits, and all other informational notices targeted to beneficiaries, potential beneficiaries, and the public. Informational notices include not only documents intended for the public, such as outreach, education, and marketing materials, but also written notices requiring a response from an individual and written notices to an individual such as those pertaining to rights or benefits.
- iii. The nondiscrimination notice shall also be posted in at least a 12-point font in conspicuous physical locations where the Contractor interacts with the public, and on the Contractor's website in a location that allows any visitor to the website to easily locate the information.
- iv. The nondiscrimination notice shall include all legally required elements under the applicable subsections of W&I Code section 14029.91 and Gov. Code section 11135.
- v. The nondiscrimination notice shall include information on how to file a discrimination grievance directly with the DHCS Office of Civil Rights, in addition to information about how to file a discrimination grievance with the County and the U.S. Health and Human Services Office for Civil Rights.
- vi. The Contractor is not prohibited from posting the nondiscrimination notice in additional publications and communications.
- 4. Language Assistance Taglines

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- i. The Contractor shall post taglines in a conspicuously visible size (no less than 12-point font), in English and at least the top 18 non-English languages in the State (as determined by DHCS), informing beneficiaries, potential beneficiaries, and the public of the availability of no-cost language assistance services, including assistance in non-English languages and the provision of free auxiliary aids and services for people with disabilities.
- ii. Taglines shall be posted in any documents that are vital or critical to obtaining services and/or benefits, conspicuous physical locations where the Contractor interacts with the public, on the Contractor's website in a location that allows any visitor to the website to easily locate the information, and in all beneficiary information and other information notice, in accordance with federal and state requirements.

5. Language Assistance Services

- i. Language assistance services shall be provided free of charge, be accurate and timely, and protect the privacy and independence of the limited English proficiency (LEP) individual. There are two primary types of language assistance services: oral and written. LEP individuals are not required to accept language assistance services, although a qualified interpreter may be used to assist in communicating with an LEP individual who has refused language assistance services.
- ii. The Contractor shall comply with the following oral interpretation requirements:
 - a. Contractors shall provide oral interpretation services from a qualified interpreter, on a 24-hour basis, at all key points of contact, at no cost to beneficiaries. Key points of contact may include medical care settings and non-medical care settings.
 - Font shall be provided in all languages and is not limited to threshold or concentration standard languages.

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- c. Interpretation can take place in-person, through a telephonic interpreter, or internet or video remote interpreting (VRI) services. However, the Contractor is prohibited from using remote audio or VRI services that do not comply with federal quality standards, or relying on unqualified bilingual/multilingual staff, interpreters, or translators. The Contractor should not solely rely on telephone language lines for interpreter services. Rather, telephonic interpreter services should supplement face-to-face interpreter services, which are a more effective means of communication.
- d. An interpreter is a person who renders a message spoken in one language into one or more languages. An interpreter shall be qualified and have knowledge in both languages of the relevant terms or concepts particular to the program or activity and the dialect spoken by the LEP individual. In order to be considered a qualified interpreter for an LEP individual, the interpreter must: 1) have demonstrated proficiency in speaking and understanding both English and the language spoken by the LEP individual; 2) be able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from the language spoken by the LEP individual and English, using any necessary specialized vocabulary, terminology, and phraseology; and 3) adhere to generally accepted interpreter ethics principles, including client confidentiality.

- e. If the Contractor provides a qualified interpreter for an individual with LEP through remote audio interpreting services, the Contractor shall provide real-time audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality audio without lags or irregular pauses in communication; a clear, audible transmission of voices; and adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the remote interpreting services.
- f. The Contractor is prohibited from requiring LEP individuals to provide their own interpreters, or from relying on bilingual/multilingual staff members who do not meet the qualifications of a qualified interpreter. Some bilingual/multilingual staff may be able to communicate effectively in a non-English language when communicating information directly in that language but may not be competent to interpret in and out of English. Bilingual/multilingual staff may be used to communicate directly with LEP individuals only when they have demonstrated to the Contractor that they meet all the qualifications of a qualified interpreter listed above.

- g. The Contractor is prohibited from relying on an adult or minor child accompanying an LEP individual to interpret or facilitate communication except when: 1) there is an emergency involving an imminent threat to the safety or welfare of the individual or the public and a qualified interpreter is not immediately available; or, 2) the LEP individual specifically requests that an accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances. Prior to using a family member, friend or, in an emergency only, a minor child as an interpreter for an LEP individual, the Contractor shall first inform the individual that they have the right to free interpreter services and second, ensure that the use of such an interpreter will not compromise the effectiveness of services or violate the LEP individual's confidentiality. The Contractor shall also ensure that the LEP individual's refusal of free interpreter services and their request to use family members, friends, or a minor child as an interpreter is documented.
- iii. The Contractor shall comply with the following written translation requirements:

- a. The Contractor shall use a qualified translator when translating written content in paper or electronic form. A qualified translator is a translator who: 1) adheres to generally accepted translator ethics principles, including client confidentiality; 2) has demonstrated proficiency in writing and understanding both written English and the written non-English language(s) in need of translation; and 3) is able to translate effectively, accurately, and impartially to and from such language(s) and English, using any necessary specialized vocabulary, terminology, and phraseology.
- b. At a minimum, the Contractor shall provide written translations of beneficiary information in the threshold and concentration languages.
- 6. Effective Communication with Individuals with Disabilities
 - The Contractor shall comply with all applicable requirements of federal and state disability law and take appropriate steps to ensure effective communication with individuals with disabilities.
 - ii. The Contractor shall provide appropriate auxiliary aids and services to persons with impaired sensory, manual, or speaking skills, including the provision of qualified interpreters and written materials in alternative formats, free of charge and in a timely manner, when such aids and services are necessary to ensure that individuals with disabilities have an equal opportunity to participate in, or enjoy the benefits of, the Contractor's covered services, programs, and activities.

- iii. The Contractor shall provide interpretive services and make member information available in the following alternative formats: Braille, audio format, large print (no less than 20point font), and accessible electronic format (such as a data CD). In determining what types of auxiliary aids and services are necessary, the Contractor shall give "primary consideration" to the individual's request of a particular auxiliary aid or service.
- iv. Auxiliary aids and services include:
 - a. Qualified interpreters on-site or through VRI services; note takers; real-time computer-aided transcription services: written materials: exchange of written notes: telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including realtime captioning; voice, text, and video-based telecommunication products and systems, text telephones (TTYs), videophones, captioned telephones, or equally effective telecommunications devices; videotext displays; accessible information and communication technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.
 - b. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs; large print materials (no less than 20-point font); accessible information and communication technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

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- ٧. When providing interpretive services, the Contractor shall use qualified interpreters to interpret for an individual with a disability, whether through a remote interpreting service or an on-site appearance. A qualified interpreter for an individual with a disability is an interpreter who: 1) adheres to generally accepted interpreter ethics principals, including client confidentiality; and 2) is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, terminology, and phraseology. For an individual with a disability, qualified interpreters can include, for example, sign language interpreters, oral transliterators (individuals who represent or spell in the characters of another alphabet), and cued language transliterators (individuals who represent or spell by using a small number of handshapes).
- vi. If a Contractor provides a qualified interpreter for an individual with a disability through VRI services, the Contractor shall provide real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of body position; a clear, audible transmission of voices; and adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.

- vii. The Contractor shall not require an individual with a disability to provide their own interpreter. The Contractor is also prohibited from relying on an adult or minor child accompanying an individual with a disability to interpret or facilitate communication except when: 1) there is an emergency involving an imminent threat to the safety or welfare of the individual or the public and a qualified interpreter is not immediately available; or, 2) the individual with a disability specifically requests that an accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances. Prior to using a family member, friend, or, in an emergency only, a minor child as an interpreter for an individual with a disability, the Contractor shall first inform the individual that they have the right to free interpreter services and second, ensure that the use of such an interpreter will not compromise the effectiveness of services or violate the individual's confidentiality. The Contractor shall ensure that the refusal of free interpreter services and the individual's request to use a family member, friend, or a minor child as an interpreter is documented.
- viii. The Contractor shall make reasonable modifications to policies, practices, or procedures when such modifications are necessary to avoid discrimination based on disability.
- L. Discrimination Grievances (W&I Code section 14029.91; 45 CFR § 84.7; 34 CFR §106.8; 28 CFR § 35.107; Government Code § 11135)
 - The Contractor shall designate a Discrimination Grievance Coordinator who is responsible for ensuring compliance with federal and state nondiscrimination requirements and investigating Discrimination Grievances related to any action that would be prohibited by, or out of compliance with, federal or state nondiscrimination law.

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- 2. The Contractor shall adopt Discrimination Grievance procedures that ensure the prompt and equitable resolution of discriminationrelated complaints. The Contractor shall not require a beneficiary to file a Discrimination Grievance with the Contractor before filing the grievance directly with DHCS Office of Civil Rights and the U.S. Health and Human Services Office for Civil Rights.
- 3. The Discrimination Grievance Coordinator shall be available to:
 - Answer questions and provide appropriate assistance to the Contractor staff and members regarding the Contractor's state and federal nondiscrimination legal obligations.
 - ii. Advise the Contractor about nondiscrimination best practices and accommodating persons with disabilities.
 - iii. Investigate and process any Americans with Disabilities Act, Section 504 of the Rehabilitation Act, section 1557 of the Affordable Care Act, and/or Gov. Code section 11135 grievances received by the Contractor.
- 4. The Contractor shall comply with the following discrimination grievances reporting requirements.
 - i. Within 10 calendar days of mailing a Discrimination Grievance resolution letter to a beneficiary, the Contractor shall submit detailed information regarding the grievance to DHCS Office of Civil Rights' designated Discrimination Grievance email box. The Contractor shall submit the following detailed information in a secure format to DHCS.DiscriminationGrievances@dhcs.ca.gov:
 - a. The original complaint.
 - b. The provider's or other accused party's response to the grievance.
 - c. Contact information for the Contractor's personnel responsible for the Contractor's investigation and response to the grievance.
 - d. Contact information for the beneficiary filing the grievance and for the provider or other accused party that is the subject of the grievance.

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- e. All correspondence with the beneficiary regarding the grievance, including, but not limited to, the Discrimination Grievance acknowledgment and resolution letter(s) sent to the beneficiary.
- f. The results of the Contractor's investigation, copies of any corrective action taken, and any other information that is relevant to the allegation(s) of discrimination.

III. Program Specifications

A. General Requirements

- The Contractor has elected to opt into the DMC-ODS to provide or arrange for covered DMC-ODS services described under this Agreement to eligible Medi-Cal individuals residing within the Contractor's county borders.
- 2. The Contractor shall comply with all State and federal statutes and regulations, the terms of this Agreement, BHINs, and any other applicable authorities.
- 3. In the event of a conflict between the terms of this Agreement and a State or federal statute or regulation, or a BHIN, the Contractor shall adhere to the applicable statute, regulation, or BHIN.

B. Provision of Services

- 1. Provider Specifications
 - i. Professional staff shall:
 - Be licensed, registered, enrolled, and/or approved in accordance with all applicable state and federal laws and regulations.
 - b. Abide by the definitions, rules, and requirements for stabilization and rehabilitation services established by the Department of Health Care Services.
 - ii. Professional staff means any of the following:
 - a. Licensed Practitioners of the Healing Arts (LPHA), including:
 - i. Physicians.
 - ii. Nurse Practitioners.
 - iii. Physician Assistants.
 - iv. Registered Nurses.
 - v. Registered Pharmacists.

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- vi. Licensed Clinical Psychologists.
- vii. Licensed Clinical Social Workers.
- viii. Licensed Professional Clinical Counselors.
- ix. Licensed Marriage and Family Therapists.
- x. Licensed-eligible practitioners registered with the Board of Psychology or Behavioral Science Board working under the supervision of a licensed clinician.
- b. An Alcohol or other drug (AOD) counselor that is 1) either certified or registered by an organization that is recognized by the Department of Health Care Services and accredited with the National Commission for Certifying Agencies (NCCA), and 2) meets all California State education, training, and work experience requirements set forth in the Counselor Certification Regulations, Cal. Code Regs., tit. 9, Div. 4, chapter 8.
- c. Medical Director of a Narcotic Treatment Program who is a licensed physician in the State of California.
- d. A Medi-Cal Peer Support Specialist with a current State-approved Medi-Cal Peer Support Specialist Certification Program certification and who meet all other applicable California state requirements, including ongoing education requirements.
- iii. Non-professional staff shall receive appropriate onsite orientation and training prior to performing assigned duties.
 A professional and/or administrative staff shall supervise non-professional staff.
- iv. Professional and non-professional staff are required to have appropriate experience and any necessary training at the time of hiring. Documentation of trainings, certifications and licensure shall be contained in personnel files.
- v. Physicians shall receive a minimum of five hours of continuing medical education related to addiction medicine each year.

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vi. Professional staff (LPHAs) shall receive a minimum of five hours of continuing education related to addiction medicine each year.

C. Organized Delivery System (ODS) Timely Coverage

- 1. Non-Discrimination Member Discrimination Prohibition
 - i. Contractor shall accept individuals eligible for enrollment in the order in which they apply without restriction in accordance with this Agreement. Contractor shall take affirmative action to ensure that beneficiaries are provided covered services and will not discriminate against individuals eligible to enroll under the laws of the United States and the State of California. Contractor shall not unlawfully discriminate against any person pursuant to:
 - a. Title VI of the Civil Rights Act of 1964.
 - b. Title IX of the Education Amendments of 1972 (regarding education and programs and activities).
 - c. The Age Discrimination Act of 1975.
 - d. The Rehabilitation Act of 1973.
 - e. The Americans with Disabilities Act.
- DMC-ODS services shall be available as a Medi-Cal benefit for individuals in accordance with this Agreement, BHIN 23-001, the applicable statutes and regulations, and any other relevant information notices issued by the Department.
 - i. The Contractor or its subcontracted provider shall verify the Medicaid eligibility determination of an individual. When the subcontracted provider conducts the initial eligibility verification, that verification shall be reviewed and approved by the Contractor prior to payment for services.

- ii. In accordance with the Early Periodic Screening, Diagnostic and Treatment (EPSDT) mandate under section 1905(r) of the Act, the Contractor shall ensure that all beneficiaries under age 21 receive all applicable SUD services needed to correct or ameliorate health conditions that are coverable under section 1905(a) of the Act. Nothing in the DMC-ODS limits or modifies the scope of the EPSDT mandate, and a participating DMC-ODS County is responsible for the provision of SUD services pursuant to the EPSDT mandate.
- iii. DMC-ODS services must be medically necessary. Pursuant to W&I Code section 14059.5(a) for individuals 21 years of age or older, a service is "medically necessary" or a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.
- iv. For individuals under 21 years of age, a service is "medically necessary" or a "medical necessity" if the service is necessary to correct or ameliorate screened health conditions. Consistent with federal guidance, services need not be curative or completely restorative to ameliorate a health condition, including substance misuse and SUDs. Services that sustain, support, improve, or make more tolerable substance misuse or an SUD are considered to ameliorate the condition and are thus covered as EPSDT services. (Section 1396d(r)(5) of Title 42 of the United States Code; W&I Code section 14059.5(b)(1)).
- v. The Contractor shall update policies and procedures, provider contracts, beneficiary handbooks, and related material to ensure the medical necessity standard is accurately reflected in all materials consistent with W&I Code section 14059.5, the terms of BHIN 23-001, and any other applicable authorities.
- vi. To receive DMC-ODS services, a beneficiary shall be enrolled in Medi-Cal, and reside in a participating county.

 DMC-ODS services shall be consistent with the following assessment, access, and level of care determination criteria:

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 Initial Assessment and Services Provided During the Assessment Process:

Covered and clinically appropriate DMC-ODS services (except for residential) shall be reimbursable for up to 30 days following the first visit with a Licensed Practitioner of the Healing Arts (LPHA), registered/certified counselor, or Medi-Cal Peer Support Specialist, whether or not a Diagnostic and Statistical Manual (DSM) diagnosis for Substance-Related and Addictive Disorders is established, or up to 60 days if the beneficiary is under age 21, or if a provider documents that the beneficiary is experiencing homelessness and therefore requires additional time to complete the assessment. If a beneficiary withdraws from treatment prior to establishing a DSM diagnosis for Substance-Related and Addictive Disorders, and later returns, the 30-day time period starts over. The initial assessment shall be performed face-to-face or, by telehealth (synchronous audio and video), or by telephone (synchronous audio-only) by an LPHA or registered or certified counselor and may be done in the community or the home. If the assessment of the beneficiary is completed by an registered or certified counselor, then the LPHA shall evaluate that assessment with the counselor and the LPHA shall make the initial diagnosis. The consultation between the LPHA and the registered or certified counselor may be conducted in person, by video conferencing, or by telephone.

b. DMC-ODS Access for Beneficiaries After Assessment:

- i. For beneficiaries 21 years and older, to qualify for DMC-ODS services after the initial assessment process, beneficiaries 21 years of age and older shall meet one of the following criteria:
 - Have at least one diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) for Substance-Related and Addictive Disorders, with the exception of Tobacco-Related Disorders and Non-Substance-Related Disorders, or
 - Have had at least one diagnosis from the DSM for Substance-Related and Addictive Disorders, with the exception of Tobacco-Related Disorders and Non-Substance-Related Disorders, prior to being incarcerated or during incarceration, determined by substance use history.

- Beneficiaries under age 21 qualify to receive ii. all medically necessary DMC-ODS services as required pursuant to section 1396d(r) of Title 42 of the United States Code. Federal EPSDT statutes and regulations require States to furnish all Medicaid-coverable, appropriate, and medically necessary services needed to correct and ameliorate health conditions, regardless of whether those services are covered in the state's Medicaid State Plan. Consistent with federal guidance, services need not be curative or completely restorative to ameliorate a health condition, including substance misuse and SUDs. Services that sustain, support, improve, or make more tolerable substance misuse or an SUD are considered to ameliorate the condition and are thus covered as EPSDT services.
- c. Additional Coverage Requirements and Clarifications Consistent with W&I Code section 14184.402(f), covered SUD prevention, screening, assessment, treatment, and recovery services are reimbursable Medi-Cal services when:
 - Services are provided prior to determination of a diagnosis or prior to determination of whether DMC-ODS criteria are met, as described above; or

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- Clinically appropriate and covered DMC-ODS services provided to beneficiaries over 21 shall be reimbursable during the assessment process as described above under the "Initial Assessment and Services Provided During the Assessment Process". In addition, the Contractor shall not disallow reimbursement for clinically appropriate and covered DMC-ODS services provided during the assessment process if the assessment determines that the beneficiary does not meet the DMC-ODS access criteria for beneficiaries after assessment.
- 2. This does not eliminate the requirement that all Medi-Cal claims, which include DMC-ODS claims, include a CMS approved International Classification of Diseases, Tenth Revision (ICD-10-CM) code. In cases where services are provided due to a suspected SUD that has not yet been diagnosed options are available in the CMS approved ICD-10-CM code list, for example, codes for "Other specified" and "Unspecified" disorders," or "Factors influencing health status and contact with health services". Refer to BHIN 22-013, for additional information regarding code selection during the assessment period for outpatient behavioral health services.
- ii. Prevention, screening, assessment, treatment, or recovery services were not included in an individual treatment plan; or

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- The Contractor shall implement the guidance in BHIN 22-019 related to documentation requirements that took effect as of July 1, 2022.
- iii. The beneficiary has a co-occurring mental health condition.
 - Medically necessary covered DMC-ODS delivered by DMC-ODS providers shall be covered and reimbursable Medi-Cal services whether or not the beneficiary has a co-occurring mental health condition. DMC-ODS counties shall not disallow reimbursement for covered DMC-ODS services provided to a beneficiary who has a co-occurring mental health condition if the beneficiary meets the DMC-ODS Access Criteria for Beneficiaries After Assessment pursuant to BHIN 22-011.
- d. Level of Care Determination: The ASAM Criteria shall be used to determine placement into the appropriate level of care for all beneficiaries, and is separate and distinct from determining medical necessity.
 - For beneficiaries 21 and over, a full assessment using the ASAM Criteria shall be completed within 30 days of the beneficiary's first visit with an LPHA or registered/certified counselor.
 - ii. For beneficiaries under 21, or for adults experiencing homelessness, a full assessment using the ASAM Criteria shall be completed within 60 days of the beneficiary's first visit with an LPHA or registered/certified counselor.

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- iii. A full ASAM Criteria assessment is not required to deliver prevention and early intervention services for beneficiaries under 21; a brief screening ASAM Criteria tool is sufficient for these services (see below regarding details about ASAM level of care 0.5).
- iv. If a beneficiary withdraws from treatment prior to completing the ASAM Criteria assessment and later returns, the time period starts over.
- v. A full ASAM Criteria assessment, or initial provisional referral tool for preliminary level of care recommendations, shall not be required to begin receiving DMC-ODS services.
- vi. A full ASAM assessment does not need to be repeated unless the beneficiary's condition changes.
- vii. These requirements for ASAM Level of Care assessments apply to NTP clients and settings.
- e. Beneficiary placement and level of care determinations shall ensure that beneficiaries are able to receive care in the least restrictive level of care that is clinically appropriate to treat their condition.

D. Covered Services

- 1. In addition to the coverage and authorization of services requirements set forth in Article II.E.4 of this Agreement, the Contractor shall:
 - Identify, define, and specify the amount, duration, and scope of each DMC-ODS service that the Contractor is required to offer.

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- ii. Require that DMC-ODS services identified be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under fee-for-service Medicaid, as set forth in 42 CFR 440.230.
- iii. Specify the extent to which the Contractor is responsible for covering DMC-ODS services related to the following:
 - a. The prevention, diagnosis, and treatment of health impairments.
 - b. The ability to achieve age-appropriate growth and development.
 - c. The ability to attain, maintain, or regain functional capacity.
- 2. The Contractor shall deliver the DMC-ODS Covered Services within a continuum of care as defined in the ASAM Criteria.
- The mandatory and optional DMC-ODS services can be found under Article III.D.4 of this Agreement. The Contractor shall provide all mandatory DMC-ODS services identified, and may provide all optional DMC-ODS services identified under Article V, in accordance with the applicable requirements set forth in this Agreement.
- 4. The following are the mandatory and optional DMC-ODS Covered Services:
 - i. Screening, Brief Intervention, Referral to Treatment and Early Intervention Services (for beneficiaries under age 21) (mandatory).
 - ii. Withdrawal Management Services (a minimum of one level is mandatory).
 - iii. Intensive Outpatient Treatment Services (mandatory).
 - iv. Outpatient Treatment Services (mandatory).
 - v. Narcotic Treatment Programs (mandatory).
 - vi. Recovery Services (mandatory).
 - vii. Care Coordination (mandatory).
 - viii. Clinician Consultation (mandatory).

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- ix. Medications for Addiction Treatment (also known as Medication Assisted Treatment or MAT). This is defined as facilitating access to MAT off-site for beneficiaries while they are receiving DMC-ODS treatment services if not provided on-site. Providing a beneficiary the contact information for a treatment program is insufficient.
- x. Residential Treatment Services (ASAM Levels 3.1, 3.3, and 3.5 shall be made available within the timeframes outlined in Article III, Section S.7.v).
- xi. Partial Hospitalization (Optional).
- xii. Medi-Cal Peer Support Services (Optional).
- xiii. Contingency Management Services (Optional).
- xiv. Inpatient Services ASAM Levels 3.7 and 4.0 (Optional for Contractor to cover as DMC-ODS services; care coordination for ASAM Levels 3.7 and 4.0 delivered through Medi-Cal Fee for Service and Managed Care Plans is required).
- Contractor, to the extent applicable, shall comply with "Sobky v. Smoley" (Document 2A), 855 F. Supp. 1123 (E.D. Cal 1994), incorporated by this reference.
- 6. Contractor shall comply with federal and state mandates to provide SUD treatment services deemed medically necessary for Medi-Cal eligible: (1) pregnant and postpartum beneficiaries, and (2) adolescents under age 21 who are eligible under EPSDT.

E. Financing

- 1. Payment for Services
 - i. The Contractor shall be paid in accordance with Exhibit B.
 - ii. Pursuant to Title 42 CFR 433.138 and Cal. Code Regs., tit. 22, § 51005(a), if a beneficiary has Other Heath Coverage (OHC), then the Contractor shall bill that OHC prior to billing DMC to receive either payment from the OHC, or a notice of denial from the OHC indicating that:
 - a. The recipient's OHC coverage has been exhausted.
 or
 - b. The specific service is not a benefit of the OHC.

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iii. If the Contractor submits a claim to an OHC and receives partial payment of the claim, the Contractor may submit the claim to the Department and is eligible to receive payment for the service in accordance with Exhibit B, Payment, less the amount of the payment made by the OHC.

F. Availability of Services

- 1. In addition to the availability of services requirements set forth in Article II.E.1 of this Agreement, the Contractor shall:
 - Consider the number and types (in terms of training, experience, and specialization) of providers required to ensure the availability and accessibility of medically necessary services.
 - ii. Maintain and monitor a network of appropriate providers that is supported by written agreements for subcontractors, and that is sufficient to provide its beneficiaries with adequate access to all services covered under this Agreement.
 - iii. In establishing and monitoring the network, document the following:
 - a. The anticipated number of Medi-Cal eligible beneficiaries.
 - b. The expected utilization of services, taking into account the characteristics and SUD treatment needs of beneficiaries.
 - The expected number and types of providers in terms of training and experience needed to meet expected utilization.
 - d. The number of network providers who are not accepting new beneficiaries.
 - The geographic location of providers and their accessibility to beneficiaries, considering distance, travel time, means of transportation ordinarily used by Medi-Cal beneficiaries, and physical access for disabled beneficiaries.

G. Access to Services

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- Subject to DHCS provider enrollment certification requirements, the Contractor shall maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services through use of DMC enrolled providers. Such services shall not be limited due to budgetary constraints.
- 2. When a beneficiary makes a request for covered services, the Contractor shall require services to be initiated with reasonable promptness. Contractor shall have a documented system for monitoring and evaluating the quality, appropriateness, and accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.
- 3. In addition to the coverage and authorization of service requirements set forth in Article II.E.4 of this Agreement, the Contractor shall:
 - Authorize DMC-ODS services in accordance with the Expanded Substance Use Disorder Services coverage provisions of the approved Medicaid State Plan.
 - ii. Make all medical necessity determinations in accordance with W&I Code section 14059.5, except as provided W&I Code section 14184.402 and any written instructions issued by the department pursuant to subdivision (d) of that Section.
 - iii. Inform the beneficiary in accordance with Article II.G.2 of this Agreement if services are denied.
 - iv. Provide prior authorization for residential services within 24 hours of the prior authorization request being submitted by the provider.
 - a. Prior authorization is prohibited for non-residential DMC-ODS services.
 - b. The Contractor's prior authorization process shall comply with the parity requirements set forth in 42 CFR §438.910(d).
 - v. Review the DSM and ASAM Criteria documentation to ensure that the beneficiary meets the requirements for the service.

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- vi. Have written policies and procedures for processing requests for initial and continuing authorization of services.
- vii. Have a mechanism in place to ensure that there is consistent application of review criteria for authorization decisions and shall consult with the requesting provider when appropriate.
- viii. Track the number, percentage of denied, and timeliness of requests for authorization for all DMC-ODS services that are submitted, processed, approved, and denied.
- ix. Pursuant to 42 CFR 438.3(I), allow each beneficiary to choose their health professional to the extent possible and appropriate.
- x. Require that treatment programs are accessible to people with disabilities in accordance with CFR Title 45, Part 84 and the Americans with Disabilities Act.
- xi. Have a 24/7 toll free number for prospective beneficiaries to call to access DMC-ODS services and make oral interpretation services available for beneficiaries, as needed.
- xii. Shall guarantee that it will not avoid costs for services covered in this Agreement by referring beneficiaries to publicly supported health care resources.
- 4. Covered services, whether provided directly by the Contractor or through subcontractor with DMC certified and enrolled programs, shall be provided to beneficiaries in the following manner:
 - i. DMC-ODS services shall be available to all beneficiaries who reside in the ODS County.

- 5. Access to State Plan services shall remain at the current, pre-implementation level or expand upon implementation. The Contractor is responsible for ensuring that its beneficiaries can receive all medically necessary DMC-ODS services. The Contractor shall not deny access to medically necessary services, including all FDA-approved medications for OUD if a beneficiary meets the medical necessity criteria for DMC-ODS services. Beneficiaries shall not be put on a wait list to access any medically necessary services. If the Contractor's provider network is unable to provide necessary services to a particular beneficiary, the Contractor shall adequately and timely cover these services out-of-network for as long as the Contractor's network is unable to provide them.
- 6. Only Medi-Cal beneficiaries for whom the county of responsibility is a DMC-ODS county are entitled to DMC-ODS services. This applies to Al/AN Medi-Cal beneficiaries as well as non-Al/AN Medi-Cal beneficiaries (BHIN 21-032 and any subsequently issued BHINs that supersede BHIN 21-032).
- 7. The Contractor shall ensure that a beneficiary that resides in a county that does not participate in DMC-ODS does not experience a disruption of NTP services. The Contractor shall require all NTP subcontractors to provide any medically necessary DMC NTP services covered by the California Medi-Cal State Plan to beneficiaries that reside in a county that does not participate in DMC-ODS. The Contractor shall require all NTP subcontractors that provide services to an out-of-county beneficiary to submit the claims for those services to the county in which the beneficiary resides (according to MEDS).

8. If a beneficiary moves to a new county and initiates an intercounty transfer, the new county shall be immediately responsible for DMC-ODS treatment services and can claim reimbursement from DHCS through the Short Doyle Medi-Cal System, as of the date of the inter-county transfer initiation, including during the inter-county transfer process and before the inter-county transfer is completed or finalized. (Contractor shall comply with all requirements under BHIN 21-032, All County Welfare Director Letter #18-02, and any applicable requirements set forth in all subsequent guidance issued by DHCS).

H. Coordination with Managed Care Programs

- Contractor shall enter into a Memorandum Of Understanding (MOU) with any Medi-Cal managed care plan that enrolls beneficiaries served by the DMC-ODS. This requirement may be met through an amendment to the Specialty Mental Health Managed Care Plan MOU.
 - i. In addition to any MOU requirements established in Department Information Notices or any other guidance, at a minimum the following elements in the MOU should be implemented at the point of care to ensure clinical integration between DMC-ODS and managed care providers:
 - Comprehensive substance use, physical, and mental health screening, including ASAM Level 0.5 SBIRT services.
 - b. Beneficiary engagement and participation in an integrated care program as needed.
 - c. Shared development of care plans by the beneficiary, caregivers, and all providers where applicable.
 - d. Collaborative care planning with managed care where applicable.
 - e. Delineation of case management responsibilities.
 - f. A process for resolving disputes between the Contractor and the Medi-Cal managed care plan that includes a means for beneficiaries to receive medically necessary services while the dispute is being resolved.

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- g. Availability of clinical consultation, including consultation on medications.
- h. Care coordination and effective communication among providers including procedures for exchanges of medical information.
- Navigation support for patients and caregivers.
- j. Facilitation and tracking of referrals.

I. Authorization of Services – Residential Programs

- 1. The Contractor shall implement residential treatment program standards that comply with the authorization of services requirements set forth in Article II.E.4 of this Agreement and shall:
 - Establish, and follow, written policies and procedures for processing requests for initial and continuing authorizations of services for residential programs.
 - ii. Ensure that residential services are provided in DHCS or Department of Social Services (DSS) licensed residential facilities that also have DMC certification and have been designated by DHCS as capable of delivering care consistent with ASAM criteria.
 - iii. Ensure that residential services may be provided in facilities with no bed capacity limit.
 - iv. Length of stay for adults, ages 21 and over, and adolescents, under the age of 21, shall be determined by an LPHA and authorized by DMC-ODS plans as medically necessary.
 - v. Ensure that the length of residential services comply with the following:
 - a. The goal for a statewide average length of stay for residential services of 30 days is not a quantitative treatment limitation or hard "cap" on individual stays.
 - b. Lengths of stay in residential treatment settings shall be determined by individualized clinical need.
 - c. The Contractor shall ensure that beneficiaries receiving residential treatment are transitioned to another level of care when clinically appropriate based on treatment progress.

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- d. The Contractor shall adhere to the length of stay monitoring requirements set forth by DHCS and length of stay performance measures established by DHCS and reported by the external quality review organization.
- e. Nothing in the DMC-ODS overrides any EPSDT requirements. EPSDT beneficiaries may receive a longer length of stay based on medical necessity.
- f. If determined to be medically necessary, perinatal beneficiaries may receive a longer length of stay than those described above.
- vi. Enumerate the mechanisms that the Contractor has in effect that ensure the consistent application of review criteria for authorization decisions, and require consultation with the requesting provider when appropriate.
- vii. Require written notice to the beneficiary of any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in treating the beneficiary's condition or disease.
- 2. Pursuant to 42 CFR 431.201, the Contractor shall define service authorization request in a manner that at least includes a beneficiary's request for the provision of a service.

J. Provider Selection and Certification

- In addition to complying with the provider selection requirements set forth in Article II.E.5 and the provider discrimination prohibitions in Article II.B.3 of this Agreement, the Contractor shall:
 - Have written policies and procedures for selection and retention of providers that comply with the terms and conditions of this Agreement and applicable federal and state laws and regulations.

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- ii. Apply those policies and procedures equally to all providers regardless of public, private, for-profit or non-profit status, and without regard to whether a provider treats persons who require high-risk or specialized services.
- iii. Not discriminate against persons who require high-risk or specialized services.
- iv. Subcontract with providers in another state where out-ofstate care or treatment is rendered on an emergency basis or is otherwise in the best interests of the person under the circumstances.
- v. Select only providers that have a license and/or certification issued by the state that is in good standing.
- vi. Select only providers that, prior to the furnishing of services under this Agreement, have enrolled with, or revalidated their current enrollment with, DHCS as a DMC provider under applicable federal and state regulations.

vii. Select only providers that have been screened in accordance with 42 CFR 455.450 prior to furnishing services under this Agreement, have signed a Medicaid provider agreement with DHCS as required by 42 CFR 431.107, and have complied with the ownership and control disclosure requirements of 42 CFR 455.104. DHCS shall deny enrollment and DMC certification to any provider (as defined in W&I Code section 14043.1), or a person with ownership or control interest (as defined in 42 CFR 455.101) in the provider, that, at the time of application, is under investigation for fraud, waste or abuse pursuant to Part 455 of Title 42 of the Code of Federal Regulations, unless DHCS determines that there is good cause not to deny enrollment upon the same bases enumerated in 42 CFR 455.23(e). If a provider is under investigation for fraud or abuse, that provider shall be subject to temporary suspension pursuant to W&I Code section 14043.36. Upon receipt of a credible allegation of fraud, a provider shall be subject to a payment suspension pursuant to W&I Code section 14107.11 and DHCS may thereafter collect any overpayment identified through an audit or examination. During the time a provider is subject to a temporary suspension pursuant to W&I Code section 14043.36, the provider, or a person with ownership or control interest (as defined in 42 CFR 455.101), in the provider may not receive reimbursement for services provided to a DMC-ODS beneficiary. A provider shall be subject to suspension pursuant to W&I Code section 14043.61 if claims for payment are submitted for services provided to a Medi-Cal beneficiary by an individual or entity that is ineligible to participate in the Medi-Cal program. A provider will be subject to termination of provisional provider status pursuant to W&I Code section 14043.27 if the provider has a debt due and owing to any government entity that relates to any federal or state health care program, and has not been excused by legal process from fulfilling the obligation. Only providers newly enrolling or revalidating their

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current enrollment on or after January 1, 2015 would be required to undergo fingerprint-based background checks required under 42 CFR 455.434.

- 2. Disclosures that shall be provided.
 - A disclosure from any provider or disclosing entity is due at any of the following times:
 - a. Upon the provider or disclosing entity submitting the provider application.
 - b. Upon the provider or disclosing entity executing the provider agreement.
 - c. Upon request of the Medicaid agency during the revalidation of enrollment process under 42 CFR 455.414.
 - d. Within 35 days after any change in ownership of the disclosing entity.
 - ii. All disclosures shall be provided to the Medicaid agency.
 - iii. Consequences for failure to provide required disclosures.
 - a. FFP is not available in payments made to a disclosing entity that fails to disclose ownership or control information as required by this section.
- 3. The Contractor shall only select providers that have a Medical Director who, prior to the delivery of services under this Agreement, has enrolled with DHCS under applicable state regulations, has been screened in accordance with 42 CFR 455.450(a) as a "limited" categorical risk within a year prior to serving as a Medical Director under this Agreement, and has signed a Medicaid provider agreement with DHCS as required by 42 CFR 431.107.
- 4. The Contractor may contract individually with LPHAs to provide DMC-ODS services in the network.
- 5. The Contractor shall have a protest procedure for providers that are not awarded a subcontract. The Contractor's protest procedure shall ensure that:
 - i. Providers that submit a bid to be a subcontracted provider, but are not selected, shall exhaust the Contractor's protest procedure if a provider wishes to appeal to DHCS.

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ii. If the Contractor does not render a decision within 30 calendar days after the protest was filed with the Contractor, then the protest shall be deemed denied and the provider may appeal the failure to DHCS.

K. DMC Certification and Enrollment

- 1. DHCS shall certify eligible providers to participate in the DMC program.
- The DHCS shall certify any Contractor-operated or nongovernmental providers. This certification shall be performed prior to the date on which the Contractor begins to deliver services under this Agreement at these sites.
- Contractor shall require that providers of perinatal DMC services are properly certified to provide these services and comply with the applicable requirements contained in Article III.XX of this Exhibit A, Attachment I.
- 4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. Contractor's subcontracts shall require that providers comply with all applicable regulations and guidelines, including:
 - i. Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8.
 - ii. Cal. Code Regs., tit. 22, § 51490(a).
 - iii. Exhibit A, Attachment I, Article III.XX Requirements for Services.
 - iv. Cal. Code Regs., tit. 9, Div. 4, chapter 4, subchapter 1, sections 10000, et seq.
 - v. Cal. Code Regs., tit. 22, Div. 3, chapter 3, §§ 51000 et. seq.
 - vi. W&I Code section 14184.100 et seq.
- 5. The Contractor shall notify Provider Enrollment Division (PED) of an addition or change of information in a provider's pending DMC certification application within 35 days of receiving notification from the provider. The Contractor shall ensure that a new DMC certification application is submitted to PED reflecting the change.

- 6. The Contractor shall be responsible for ensuring that any reduction of covered services or relocations by providers are not implemented until the approval is issued by DHCS. Within 35 days of receiving notification of a provider's intent to reduce covered services or relocate, the Contractor shall submit, or require the provider to submit, a DMC certification application to PED. The DMC certification application shall be submitted to PED 60 days prior to the desired effective date of the reduction of covered services or relocation.
- 7. The Contractor shall notify DHCS PED by e-mail at <u>DHCSDMCRecert@dhcs.ca.gov</u> within two business days of learning that a subcontractor's license, registration, certification, or approval to operate an SUD program or provide a covered service is revoked, suspended, modified, or not renewed by entities other than DHCS.
 - i. A provider's certification to participate in the DMC program shall automatically terminate in the event that the provider, or its owners, officers or directors are convicted of Medi-Cal fraud, abuse, or malfeasance. For purposes of this section, a conviction shall include a plea of guilty or nolo contendere.

L. Continued Certification

- 1. All DMC enrolled providers shall be subject to continuing certification requirements at least once every five years. DHCS may allow the Contractor to continue delivering covered services to beneficiaries at a site subject to on-site review by DHCS as part of the recertification process prior to the date of the on-site review, provided the site is operational, the certification remains valid, and has all required fire clearances.
- 2. DHCS shall conduct unannounced certification and recertification on-site visits at clinics pursuant to W&I Code section 14043.7.

M. Laboratory Testing Requirements

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- 42 CFR Part 493 sets forth the conditions that all laboratories shall meet to be certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (CLIA). Except as specified in paragraph (2) of this section, a laboratory will be cited as out of compliance with section 353 of the Public Health Service Act unless it:
 - Has a current, unrevoked or unsuspended certificate of waiver, registration certificate, certificate of compliance, certificate for provider-performed microscopy procedures, or certificate of accreditation issued by HHS applicable to the category of examinations or procedures performed by the laboratory; or
 - ii. Is CLIA-exempt.
- 2. These rules do not apply to components or functions of:
 - Any facility or component of a facility that only performs testing for forensic purposes.
 - ii. Research laboratories that test human specimens but do not report patient specific results for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of individual patients.
 - iii. Laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA), in which drug testing is performed which meets SAMHSA guidelines and regulations. However, all other testing conducted by a SAMHSA-certified laboratory is subject to this rule.
- 3. Laboratories under the jurisdiction of an agency of the Federal Government are subject to the rules of 42 CFR 493, except that the Secretary may modify the application of such requirements as appropriate.
- N. Recovery from Other Sources or Providers

- 1. The Contractor shall recover the value of covered services rendered to beneficiaries whenever the beneficiaries are covered for the same services, either fully or partially, under any other state or federal medical care program or under other contractual or legal entitlement including, but not limited to, a private group or indemnification program, but excluding instances of the tort liability of a third party or casualty liability insurance.
- 2. The monies recovered are retained by the Contractor. However, Contractor's claims for FFP for services provided to beneficiaries under this Agreement shall be reduced by the amount recovered.
- 3. The Contractor shall maintain accurate records of monies recovered from other sources.
- 4. Nothing in this section supersedes the Contractor's obligation to follow federal requirements for claiming FFP for services provided to beneficiaries with other coverage under this Agreement.

O. Screening, Brief Intervention, Referral to Treatment and Early Intervention Services (ASAM Level 0.5)

- 1. Beneficiaries under the age of 21 who are screened and determined to be at risk of developing an SUD may receive any service component covered under the outpatient level of care as early intervention services. An SUD diagnosis is not required for early intervention services. This does not eliminate the requirement that all Medi-Cal claims, to include DMC-ODS claims, include a CMS approved ICD-10 diagnosis code. In cases where services are provided due to a suspected SUD that has not yet been diagnosed options are available in the CMS approved ICD-10-CM code list.
- 2. Early intervention services shall be provided under the outpatient treatment modality and shall be available as needed based on individual clinical need, even if the beneficiary under age 21 is not participating in the full array of outpatient treatment services.

- 3. A full assessment utilizing the ASAM criteria is not required for a DMC beneficiary under the age of 21 to receive early intervention services; an abbreviated ASAM screening tool may be used. If the beneficiary under 21 meets diagnostic criteria for SUD, a full ASAM assessment shall be performed and the beneficiary shall receive a referral to the appropriate level of care indicated by the assessment.
- 4. Early intervention services may be delivered in a wide variety of settings, and can be provided in person, by telehealth, or by telephone.
- 5. Nothing in this section shall limit or modify the scope of the EPSDT mandate.

P. Outpatient Treatment Services (ASAM Level 1.0)

- 1. Outpatient treatment services (also known as Outpatient Drug Free or ODF) are provided to beneficiaries when medically necessary. Providers shall offer up to nine hours a week for adults, and up to six hours a week for adolescents. Services received by the individual beneficiary may exceed the maximum based on individual medical necessity. Outpatient Treatment Services may be provided in person, by telehealth, or by telephone.
- 2. Outpatient services consist of up to nine hours per week of medically necessary services for adults and up to six hours per week of services for adolescents. Group size is limited to no less than two (2) and no more than twelve (12) beneficiaries.
- Outpatient Treatment Services include: assessment, care coordination, counseling (individual and group), family therapy, medication services, MAT for OUD, MAT for AUD and non-opioid SUDs, patient education, recovery services, SUD crisis intervention services.

4. The Contractor shall either offer medications for addiction treatment (MAT, also known as medication-assisted treatment) directly, or have effective referral mechanisms in place to the most clinically appropriate MAT services (defined as facilitating access to MAT off-site for beneficiaries while they are receiving outpatient treatment services if not provided on-site. Providing a beneficiary the contact information for a treatment program is insufficient).

Q. Intensive Outpatient Treatment Services (ASAM Level 2.1)

- 1. Intensive Outpatient Treatment Services are provided to beneficiaries when medically necessary in a structured programming environment. Providers shall offer a minimum of nine hours with a maximum of 19 hours a week for adults, and a minimum of six hours with a maximum of 19 hours a week for adolescents. Services received by the individual beneficiary may exceed the maximum based on individual medical necessity. Intensive Outpatient Treatment Services may be provided in person, by telehealth, or by telephone.
- 2. Group size is limited to no less than two (2) and no more than twelve (12) beneficiaries.
 - The contractor-operated and subcontracted DMC-ODS providers may provide more than 19 hours per week to adults when determined by a Medical Director or an LPHA to be medical necessary.
 - ii. The contractor-operated and subcontracted DMC-ODS providers may extend a beneficiary's length of treatment when determined by a Medical Director or an LPHA to be medically necessary.
- Intensive Outpatient Treatment Services includes: assessment, care coordination, counseling (individual and group), family therapy, medication services, MAT for OUD, MAT for AUD and non-opioid SUDs, patient education, recovery services, and SUD crisis intervention services.

- 4. The Contractor shall offer MAT directly or have effective referral mechanisms in place to the most clinically appropriate MAT services (defined as facilitating access to MAT off-site for beneficiaries while they are receiving intensive outpatient treatment services if not provided on-site. Providing a beneficiary the contact information for a treatment program is insufficient).
- **R. Partial Hospitalization (ASAM Level 2.5)** (Optional) If Contractor agrees to provide Partial Hospitalization Services, as identified under Article V, Contractor shall comply with the following requirements:
 - 1. Partial Hospitalization Services are clinically intensive programming designed to address the treatment needs of beneficiaries with severe SUD requiring more intensive treatment services than can be provided at lower levels of care.
 - 2. Partial Hospitalization Services may be provided in person, by synchronous telehealth, or by telephone. Level 2.5 Partial Hospitalization Programs typically have direct access to psychiatric, medical, and laboratory services, and are to meet the identified needs that warrant daily monitoring or management, but that can be appropriately addressed in a structured outpatient setting.
 - 3. The Contractor shall ensure:
 - i. Partial Hospitalization Services are delivered to beneficiaries when medically necessary in a clinically intensive programming environment (offering 20 or more hours of clinically intensive programming per week).
 - ii. Partial hospitalization (ASAM Level 2.5) shall be available to beneficiaries with unstable medical and psychiatric problems. A minimum of 20 or more hours of service per week shall be provided in Level 2.5.
 - 4. Partial Hospitalization Services include the following services components: assessment, care coordination, counseling (individual and group), family therapy, medication services, MAT for OUD, MAT for AUD and non-opioid SUDs, patient education, recovery services, SUD crisis intervention services.
 - 5. The Contractor shall either offer MAT directly, or have effective referral mechanisms to the most clinically appropriate MAT services in place (defined as facilitating access to MAT off-site for beneficiaries while they are receiving withdrawal management

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services if not provided on-site. Providing a beneficiary the contact information for a treatment program is insufficient).

- S. Residential Treatment (ASAM Levels 3.1 3.5); and Inpatient Services (ASAM 3.7 and 4.0) (Optional)
 - 1. Residential Treatment Services are delivered to beneficiaries when medically necessary in a short-term residential program corresponding to at least one of the following levels:
 - Level 3.1 Clinically Managed Low-Intensity Residential Services.
 - ii. Level 3.3 Clinically Managed Population-Specific High Intensity Residential Services.
 - iii. Level 3.5 Clinically Managed High Intensity Residential Services.
 - 2. Inpatient Treatment Services are delivered to beneficiaries when medically necessary in a short-term inpatient program corresponding to at least one of the following levels:
 - i. Level 3.7 Medically Monitored Intensive Inpatient Services.
 - ii. Level 4.0 Medically Managed Intensive Inpatient Services.
 - Residential services are provided in DHCS or DSS licensed residential facilities that also have DMC certification and have been designated by DHCS as capable of delivering care consistent with ASAM treatment criteria.
 - 4. All Residential and Inpatient Treatment services shall be provided to a beneficiary while in a residential or inpatient treatment facility may be provided in person, by telehealth, or telephone. Telehealth and telephone services, when provided, shall supplement, not replace, the in-person services and the in-person treatment milieu; most services in a residential or inpatient facility shall be in-person.

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- 5. A beneficiary receiving residential services or inpatient services pursuant to DMC-ODS, regardless of the length of stay, is a "short-term resident" of the residential or inpatient facility in which they are receiving the services. These services are intended to be individualized to treat the functional deficits identified in the ASAM Criteria. Each beneficiary shall live on the premises and shall be supported in their efforts to restore, maintain, and apply interpersonal and independent living skills and access community support systems.
- 6. Providers shall either offer MAT directly, or have effective referral mechanisms in place to clinically appropriate MAT services (defined as facilitating access to MAT off-site for beneficiaries while they are receiving residential treatment services if not provided on-site. Providing a beneficiary the contact information for a treatment program is insufficient).
- 7. Residential Treatment Services
 - i. Residential Treatment Services for adults in ASAM Levels 3.1-3.5 are provided by DMC-certified providers who must be licensed and enrolled in accordance with all applicable state and federal laws and regulations. This includes:
 - a. Residential facilities licensed by DHCS.
 - b. Residential facilities licensed by the Department of Social Services.
 - c. Chemical Dependency Recovery Hospitals (CDRHs) licensed by the Department of Public Health (DPH).
 - d. Freestanding Acute Psychiatric Hospitals (FAPHs) licensed by DPH.
 - ii. The Contractor shall ensure all providers delivering Residential Treatment services under DMC-ODS shall also be designated as capable of delivering care consistent with the ASAM Criteria. Residential treatment providers licensed by DHCS offering ASAM levels 3.1, 3.3, 3.5, and 3.2-WM shall also have a DHCS Level of Care (LOC) Designation and/or an ASAM LOC Certification that indicates that the program is capable of delivering care consistent with the ASAM Criteria.

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- iii. To participate in the DMC-ODS program and offer ASAM Levels of Care 3.1, 3.3, or 3.5, residential providers licensed by a state agency other than DHCS shall be DMC-certified. In addition, facilities licensed by a state agency other than DHCS shall have an ASAM LOC Certification for each level of care provided by the facility under the DMC-ODS program by January 1, 2024. The Contractor shall be responsible for ensuring and verifying that DMC-ODS providers delivering ASAM Levels of care 3.1, 3.3 or 3.5 obtain an ASAM LOC Certification for each level of care provided effective January 1, 2024.
- iv. Residential Treatment services can be provided in facilities of any size. Contractor shall comply with the length of stay requirements set forth in Article III.I.1(iv)-(v) of this Agreement.
- v. The Contractor shall implement coverage and ensure access for residential SUD treatment services as follows:
 - a. Upon implementation, the Contractor shall provide innetwork access to ASAM 3.1, and the Contractor's network for that level of care shall comply with applicable network adequacy, and time or distance standards.
 - b. Within two years of implementation, the Contractor shall provide in-network access to ASAM Level 3.5, and the Contractor's network for that level of care shall comply with applicable network adequacy, and time or distance standards.
 - c. Within three years of implementation, the Contractor shall provide in-network access to ASAM Levels 3.3.
- vi. If, at any point in time, the Contractor's provider network is unable to provide any residential level of care to a particular beneficiary that meets medical necessity for that residential level of care, the Contractor shall adequately and timely cover these residential services out-of-network for the beneficiary, for as long as the Contractor's provider network is unable to provide them.

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- vii. Residential Treatment Services include: assessment, care coordination, counseling (individual and group), family therapy, medication services, MAT for OUD, MAT for AUD and non-opioid SUDs, patient education, recovery services, and SUD crisis intervention services.
- viii. Nothing in the DMC-ODS shall override any EPSDT requirements.
- ix. Residential providers may apply to provide Incidental Medical Services pursuant to DHCS guidance.

8. Inpatient Services

- i. The Contractor may voluntarily cover and receive reimbursement through the DMC-ODS program for inpatient ASAM Levels 3.7 and 4.0 delivered in general acute care hospitals, FAPHs, or CDRHs. Regardless of whether the Contractor covers ASAM Levels 3.7 or 4.0, the Contractor implementation plan shall describe referral mechanisms and care coordination for ASAM Levels 3.7 and 4.0. DHCS All-Plan Letter 18-001 clarifies coverage of voluntary inpatient detoxification through the Medi-Cal FFS program.
- ii. In order to participate in the DMC-ODS program and offer ASAM Levels of Care 3.7 and 4.0, inpatient providers licensed by a state agency other than DHCS must be DMCcertified.
- iii. Inpatient Treatment Services include the following services: assessment, care coordination, counseling (individual and group), family therapy, medication services, MAT for OUD, MAT for AUD and other non-opioid SUDs, patient education, recovery services, and SUD crisis intervention services.

T. Withdrawal Management

- 1. Withdrawal Management Services are provided to beneficiaries experiencing withdrawal in the following outpatient, residential, or inpatient settings:
 - Level 1-WM: Ambulatory withdrawal management without extended on-site monitoring (Mild withdrawal with daily or less than daily outpatient supervision).

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- ii. Level 2-WM: Ambulatory withdrawal management with extended on-site monitoring (Moderate withdrawal with daytime withdrawal management and support and supervision in a non-residential setting).
- iii. Level 3.2-WM: Clinically managed residential withdrawal management (24-hour support for moderate withdrawal symptoms that are not manageable in outpatient setting).
- iv. Level 3.7-WM: Medically Managed Inpatient Withdrawal Management (24-hour care for severe withdrawal symptoms requiring 24-hour nursing care and physician visits).
- v. Level 4-WM: Medically managed intensive inpatient withdrawal management (Severe, unstable withdrawal requiring 24-hour nursing care and daily physician visits to modify withdrawal management regimen and manage medical instability).
- 2. Withdrawal management services are urgent and provided on a short-term basis. When provided as part of withdrawal management services, service activities, such as the assessment, shall focus on the stabilization and management of psychological and physiological symptoms associated with withdrawal, engagement in care and effective transitions to a level of care where comprehensive treatment services are provided.
- 3. A full ASAM Criteria assessment shall not be required as a condition of admission to a facility providing Withdrawal Management. To facilitate an appropriate care transition, a full ASAM assessment, brief screening, or other tool to support referral to additional services is appropriate. If it has not already been completed in relation to the Withdrawal Management episode, the full ASAM Criteria assessment shall be completed within 30 days of the beneficiary's first visit with an LPHA or registered/certified counselor for non-Withdrawal Management services (or 60 days for beneficiaries under 21, or beneficiaries experiencing homelessness), as described above.

- 4. The Contractor shall provide, at a minimum, one of the five levels of withdrawal management (WM) services according to the ASAM Criteria, when determined by a Medical Director or LPHA as medically necessary.
- 5. The Contractor shall ensure that all beneficiaries receiving withdrawal management services are provided in an outpatient, residential or inpatient setting. If beneficiary is receiving withdrawal management in a residential or inpatient setting, each beneficiary shall reside at the facility. All beneficiaries receiving Withdrawal Management services, regardless in which type of setting, shall be monitored during the detoxification process.
 - The Contractor shall ensure observation be conducted at the frequency required by applicable state and federal laws, regulations, and standards. This may include but is not limited to observation of the beneficiary's health status.
- Withdrawal Management Services include the following service components: assessment, care coordination, medication services, MAT for OUD, MAT for AUD and non-opioid SUDs, observation, and recovery services.
- 7. Providers shall either offer MAT directly or have effective referral mechanisms to the most clinically appropriate MAT services in place (defined as facilitating access to MAT off-site for beneficiaries while they are receiving withdrawal management services if not provided on-site). Providing a beneficiary the contact information for a treatment program is insufficient.

U. Narcotic Treatment Program

 Narcotic Treatment Program (NTP) is an outpatient program that provides Food and Drug Administration (FDA)-approved medications and biological products to treat SUDs when ordered by a physician as medically necessary. NTPs shall administer, dispense, or prescribe medications to beneficiaries covered under the DMC-ODS formulary including methadone, buprenorphine (transmucosal and long-acting injectable), naltrexone (oral and long-acting injectable), naloxone and disulfiram.

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- i. If an NTP is unable to directly administer or dispense medically necessary medications covered under the DMC-ODS formulary, the NTP shall prescribe the medication for dispensing at a pharmacy or refer the beneficiary to a provider capable of dispensing the medication.
- 2. NTPs shall comply with all federal and state NTP licensing requirements.
 - If the NTP cannot comply with all federal and state NTP requirements, then the NTP must assist the beneficiary in choosing another MAT provider, ensure continuity of care, and facilitate a warm hand-off to ensure engagement.
- 3. The NTP shall offer the beneficiary a minimum of fifty minutes of counseling services per calendar month.
- 4. NTP services shall be provided in DHCS-licensed NTP facilities pursuant to the Cal. Code Regs., tit. 9, div. 4, chapter 4, and title 42 of the CFR. Counseling services provided in the NTP modality can be provided in person, by telehealth, or by telephone. However, the medical evaluation for methadone treatment (which consists of a medical history, laboratory tests, and a physical exam) shall be is conducted in person.
- 5. NTP Services include the following service components: Assessment; care coordination; counseling; family therapy; medical psychotherapy; medication services; MAT for OUD; MAT for AUD and non-opioid SUDs; patient education; recovery services and SUD crisis intervention services.
- 6. Pursuant to W&I Code section 14124.22, an NTP provider who is also enrolled as a Medi-Cal provider may provide medically necessary treatment of concurrent health conditions to Medi-Cal beneficiaries who are not enrolled in managed care plans as long as those services are within the scope of the provider's practice. NTP providers shall refer all Medi-Cal beneficiaries that are enrolled in managed care plans to their respective managed care plan to receive medically necessary medical treatment of their concurrent health conditions.

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- 7. The diagnosis and treatment of concurrent health conditions of Medi-Cal beneficiaries that are not enrolled in managed care plans by an NTP provider may be provided within the Medi-Cal coverage limits. When the services are not part of the SUD treatment reimbursed pursuant to W&I Code section 14021.51, the services rendered shall be reimbursed in accordance with the Medi-Cal program. Services reimbursable under this section shall include all the following:
 - i. Medical treatment visits.
 - ii. Diagnostic blood, urine, and X-rays.
 - iii. Psychological and psychiatric tests and services.
 - iv. Quantitative blood and urine toxicology assays.
 - v. Medical supplies.
- 8. An NTP provider who is enrolled as a Medi-Cal fee-for-service provider shall not seek reimbursement from a beneficiary for SUD treatment services, if the NTP provider bills the services for treatment of concurrent health conditions to the Medi-Cal fee-for-service program.
- 9. The Contractor shall subcontract with licensed NTPs to offer services to beneficiaries as medically necessary.
- 10. Services shall be provided in accordance with an individualized beneficiary plan determined by a licensed prescriber.

V. Recovery Services

- Beneficiaries may receive Recovery Services based on selfassessment or provider assessment of relapse risk. Beneficiaries do not need to be diagnosed as being in remission to access Recovery Services. Beneficiaries may receive Recovery Services while receiving MAT services, including NTP services. Beneficiaries may receive Recovery Services immediately after incarceration with a prior diagnosis of SUD.
- Recovery Services can be delivered and claimed as a standalone service, concurrently with the other levels of care of a covered DMC-ODS service, or as a service delivered as part of these levels of care.

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- 3. Recovery services include: assessment, care coordination, counseling (individual and group), family therapy, recovery monitoring (which includes recovery coaching and monitoring designed for the maximum reduction of the beneficiary's SUD) and relapse prevention (which includes interventions designed to teach beneficiaries with SUD how to anticipate and cope with the potential for relapse for the maximum reduction of the beneficiary's SUD).
- 4. Recovery Services may be provided in person, by telehealth, or by telephone.

W. Medi-Cal Peer Support Services (Optional)

 If Contractor agrees to provide Medi-Cal Peer Support Services as identified under Article V of this agreement; has opted to provide Medi-Cal Peer Support Services; and has been approved by DHCS; the Contractor shall comply with the Medi-Cal Peer Support Services provisions in Article V.

X. Contingency Management Services (Optional)

If Contractor agrees to provide Contingency Management
 Services as identified under Article V of this agreement, has opted
 to provide Contingency Management Services, and has been
 approved by DHCS, then the Contractor shall comply with the
 Contingency Management Services provisions in Article V.

Y. Care Coordination

- Care coordination consists of activities to provide coordination of SUD care, mental health care, and medical care, and to support the beneficiary with linkages to services and supports designed to restore the beneficiary to their best possible functional level. Care Coordination can be provided in clinical or non-clinical settings and can be provided in person, by telehealth, or by telephone.
- 2. Care coordination shall be provided to a beneficiary in conjunction with all levels of treatment. Care coordination may also be delivered and claimed as a standalone service. Through executed memoranda of understanding, the Contractor shall implement care coordination services with other SUD, physical, and/or mental health services in order to ensure a beneficiary-centered and whole-person approach to wellness.

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- 3. Care coordination services shall be provided by an LPHA or a registered/certified counselor.
- 4. Care coordination services shall include one or more of the following components:
 - i. Coordinating with medical and mental health care providers to monitor and support comorbid health conditions.
 - ii. Discharge planning, including coordinating with SUD treatment providers to support transitions between levels of care and to recovery resources, referrals to mental health providers, and referrals to primary or specialty medical providers.
 - iii. Coordinating with ancillary services, including individualized connection, referral, and linkages to community-based services and supports including but not limited to educational, social, prevocational, vocational, housing, nutritional, criminal justice, transportation, childcare, child development, family/marriage education, cultural sources, and mutual aid support groups.

Z. Clinician Consultation Services

- Clinician Consultation Services consist of LPHAs, such as addiction medicine physicians, licensed clinicians, addiction psychiatrists, or clinical pharmacists, to support the provision of care.
- 2. Clinician Consultation is not a direct service provided to beneficiaries. Clinician Consultation is designed to support DMC-ODS licensed clinicians with complex cases and may address medication selection, dosing, side effect management, adherence, drug-drug interactions, or level of care considerations. It includes consultations between clinicians designed to assist DMC clinicians with seeking expert advice on treatment needs for specific DMC-ODS beneficiaries.
- 3. The Contractor may contract with one or more physicians, clinicians, or pharmacists specializing in addiction in order to provide consultation services. These consultations can occur in person, by telehealth, by telephone, or by asynchronous telecommunication systems.

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4. The Contractor shall only allow DMC providers to bill for clinician consultation services.

AA. Medications for Addiction Treatment (also known as Medication Assisted Treatment or MAT)

- MAT includes all FDA-approved drugs and biological products to treat Alcohol Use Disorder (AUD), Opioid Use Disorder (OUD), and any SUD. MAT may be provided in clinical or non-clinical settings and can be delivered as a standalone service or as a service delivered as part of a level of care listed in Article III.D.4 of this Agreement.
- 2. When MAT is being provided as a standalone service, MAT includes the following components: assessment; care coordination; counseling (individual and group counseling); family therapy; medication services; patient education; prescribing and monitoring for MAT for OUD and AUD and non-opioid SUDs which is prescribing, administering, dispensing, ordering, monitoring, and/or managing the medications used for MAT for OUD, AUD and non-opioid SUDs; recovery services; SUD crisis intervention services; and withdrawal management services.
- 3. The Contractor shall require that all DMC-ODS providers, at all levels of care, demonstrate that they either directly offer or have an effective referral mechanisms/process to MAT to beneficiaries with SUD diagnoses that are treatable with Food and Drug administration (FDA)-approved medications and biological products. An effective referral mechanism/process is defined as facilitating access to MAT off-site for beneficiaries while they are receiving treatment services if not provided on-site. Providing a beneficiary the contact information for a treatment program is insufficient. A facilitated referral to any Medi-Cal provider rendering MAT to the beneficiary is compliant whether or not they seek reimbursement through DMC-ODS. Beneficiaries needing or utilizing MAT shall be served and cannot be denied treatment services or be required to be tapered off medications as a condition of entering or remaining in the program. The Contractor shall monitor the referral process or provision of MAT services.

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- 4. The Contractor has the option to cover drug product costs for MAT when the medications are purchased and administered or dispensed outside of the pharmacy or NTP benefit (in other words, purchased by providers and administered or dispensed on site or in the community, and billed to the county DMC-ODS plan). If the Contractor makes this election, the Contractor may reimburse providers for the medications, including naloxone, trans-mucosal buprenorphine, and/or long-acting injectable medications (such as buprenorphine or naltrexone), administered in DMC facilities, and non-clinical or community settings. However, even if the Contractor does not choose to cover the drug product costs for MAT outside of the pharmacy or NTP benefit, the Contractor shall still be required to reimburse for MAT services even when provided by DMC-ODS providers in non-clinical settings and when provided as a standalone service.
- 5. All medications and biological products utilized to treat SUDs, including long-acting injectables, continue to be available through the Medi-Cal pharmacy benefit without prior authorization, and can be delivered to provider offices by pharmacies.
- 6. Beneficiaries needing or utilizing MAT shall be served and cannot be denied treatment services or be required to decrease dosage or be tapered off medications as a condition of entering or remaining in the program. DMC-ODS providers offering MAT shall not deny access to medication or administratively discharge a beneficiary who declines counseling services. For patients with lack of connection to psychosocial services, more rigorous attempts at engagement in care may be indicated, such as using different evidence-based practices, different modalities (e.g., telehealth), different staff, and/or different services (e.g., Medi-Cal Peer Support Services). If the DMC-ODS provider is not capable of continuing to treat the beneficiary, the DMC-ODS provider shall assist the member in choosing another MAT provider, ensure continuity of care, and facilitate a warm hand-off to ensure engagement.

BB. Cultural Competence Plan

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 The Contractor shall participate in the State's efforts to promote the delivery of services in a culturally competent manner to all beneficiaries, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or gender identity. (42 C.F.R. § 438.206(c)(2).

CC. Implementation Plan

1. The Contractor shall comply with the provisions of the Contractor's Implementation Plan (IP) as approved by DHCS.

DD. Additional Provisions

- 1. Additional Agreement Restrictions
 - i. This Agreement is subject to any additional restrictions, limitations, conditions, or statutes enacted or amended by the federal or state governments, which may affect the provisions, terms, or funding of this Agreement in any manner.
- 2. Voluntary Termination of DMC-ODS Services
 - i. The Contractor may terminate this Agreement at any time, for any reason, by giving 60 days written notice to DHCS. The Contractor shall be paid for DMC-ODS services provided to beneficiaries up to the date of termination. Upon termination, the Contractor shall immediately begin providing DMC services to beneficiaries in accordance with the State Plan.
- 3. Nullification of DMC-ODS Services
 - i. The parties agree that failure of the Contractor, or its subcontractors, to comply with W&I Code section 14124.24, 14184.100 et seq., BHIN 23-001, this Agreement, and any other applicable statutes, regulations or guidance issued by DHCS, shall be deemed a breach that results in the termination of this Agreement for cause.
 - ii. In the event of a breach, DMC-ODS services shall terminate. The Contractor shall immediately begin providing DMC services to the beneficiaries in accordance with the State Plan.
- 4. Hatch Act

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- i. Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
- 5. No Unlawful Use or Unlawful Use Messages Regarding Drugs
 - i. Contractor agrees that information produced through these funds, and which pertains to drug and alcohol related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (H&S Code section 11999-11999.3). By signing this Agreement, Contractor agrees that it shall enforce, and shall require its subcontractors to enforce, these requirements.
- 6. Noncompliance with Reporting Requirements
 - Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports to DHCS, as identified in this Exhibit A, Attachment I or as identified in Document 1F(a), Reporting Requirement Matrix for Counties.
- 7. Limitation on Use of Funds for Promotion of Legalization of Controlled Substances
 - i. None of the funds made available through this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).
- 8. Health Insurance Portability and Accountability Act (HIPAA) of 1996
 - i. If any of the work performed under this Agreement is subject to the HIPAA, Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit F, DHCS and the Contractor shall cooperate to ensure mutual agreement as to those transactions between them, to which this Provision applies. Refer to Exhibit F for additional information.

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- ii. Trading Partner Requirements
 - a. No Changes. Contractor hereby agrees that for the personal health information (Information), it shall not change any definition, data condition or use of a data element or segment as proscribed in the federal HHS Transaction Standard Regulation (45 CFR Part 162.915 (a)).
 - b. No Additions. Contractor hereby agrees that for the Information, it shall not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation (45 CFR Part 162.915 (b)).
 - c. No Unauthorized Uses. Contractor hereby agrees that for the Information, it shall not use any code or data elements that either are marked "not used" in the HHS Transaction's Implementation specification or are not in the HHS Transaction Standard's implementation specifications (45 CFR Part 162.915 (c)).
 - d. No Changes to Meaning or Intent. Contractor hereby agrees that for the Information, it shall not change the meaning or intent of any of the HHS Transaction Standard's implementation specification (45 CFR Part 162.915 (d)).
- iii. Concurrence for Test Modifications to HHS Transaction Standards
 - a. Contractor agrees and understands that there exists the possibility that DHCS or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, Contractor agrees that it shall participate in such test modifications.
- iv. Adequate Testing

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a. Contractor is responsible to adequately test all business rules appropriate to their types and specialties. If the Contractor is acting as a clearinghouse for enrolled providers, Contractor has obligations to adequately test all business rules appropriate to each and every provider type and specialty for which they provide clearinghouse services.

v. Deficiencies

a. The Contractor agrees to cure transactions errors or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. If the Contractor is a clearinghouse, the Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

vi. Code Set Retention

- a. Both DHCS and the Contractor understand and agree to keep open code sets being processed or used in this Agreement for at least the current billing period or any appeal period, whichever is longer.
- vii. Data Transmission Log

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a. Both DHCS and the Contractor shall establish and maintain a Data Transmission Log, which shall record any and all data transmissions taking place between the Parties during the term of this Agreement. Each Party shall take necessary and reasonable steps to ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the Parties, and shall be retained by each Party for no less than 24 months following the date of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if necessary to do so, the information contained in the Data Transmission Log may be retrieved in a timely manner and presented in readable form.

9. Counselor Certification

i. Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS licensed or certified program is required to comply with the requirements in Cal. Code Regs., tit. 9, div. 4, chapter 8. (Document 3H)

10. Cultural and Linguistic Proficiency

- To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Agreement shall adopt the federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards (Document 3V) and comply with 42 CFR 438.206(c)(2).
- 11. Trafficking Victims Protection Act of 2000

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- Contractor and its subcontractors that provide services covered by this Agreement shall comply with section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as amended by section 1702. For full text of the award term, go to: http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title22-section7104d&num=0&edition=prelim.
- 12. Participation in the County Behavioral Health Director's Association of California.
 - The Contractor's County Administrator or designee shall participate and represent the county in meetings of the County Behavioral Health Director's Association of California for the purposes of representing the counties in their relationship with DHCS with respect to policies, standards, and administration for SUD services.
 - ii. The Contractor's County Administrator or designee shall attend any special meetings called by the Director of DHCS.
- 13. Adolescent Substance Use Disorder Best Practices Guide Contractor shall follow the guidelines in Document 1V, incorporated by this reference, "Adolescent Substance Use Disorder Best Practices Guide," in developing and implementing adolescent treatment programs funded under this Exhibit, until such time new Guidelines are established and adopted. No formal amendment of this Agreement is required for new guidelines to be incorporated into this Agreement.
- 14. Nondiscrimination in Employment and Services
 - i. By signing this Agreement, Contractor certifies that under the laws of the United States and the State of California, incorporated into this Agreement by reference and made a part hereof as if set forth in full, Contractor shall not unlawfully discriminate against any person.
- 15. Federal Law Requirements:
 - Title VI of the Civil Rights Act of 1964, section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally funded programs.

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- ii. Title IX of the Education Amendments of 1972 (regarding education and programs and activities), if applicable.
- iii. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.
- iv. Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC sections 6101 6107), which prohibits discrimination on the basis of age.
- v. Age Discrimination in Employment Act (29 CFR Part 1625).
- vi. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
- vii. Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.
- viii. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
- ix. Rehabilitation Act of 1973, as amended (29 USC section 794), prohibiting discrimination on the basis of individuals with disabilities.
- x. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.
- xi. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
- xii. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
- xiii. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
- 16. State Law Requirements:

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- Fair Employment and Housing Act (Gov. Code section 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs., tit. 2, Div. 4 § 7285.0 et seq.).
- ii. Title 2, Division 3, Article 9.5 of the Gov. Code, commencing with Section 11135.
- iii. Cal. Code Regs., tit. 9, div. 4, chapter 8, commencing with § 10800.
- iv. No state or Federal funds shall be used by the Contractor, or its subcontractors, for sectarian worship, instruction, and/or proselytization. No state funds shall be used by the Contractor, or its subcontractors, to provide direct, immediate, or substantial support to any religious activity.
- v. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for state to withhold payments under this Agreement or terminate all, or any type, of funding provided hereunder.
- 17. Investigations and Confidentiality of Administrative Actions
 - i. Contractor acknowledges that if a DMC provider is under investigation by DHCS or any other state, local or federal law enforcement agency for fraud or abuse, DHCS may temporarily suspend the provider from the DMC program, pursuant to W&I Code section 14043.36(a). Information about a provider's administrative sanction status is confidential until such time as the action is either completed or resolved. DHCS may also issue a payment suspension to a provider pursuant to W&I Code section 14107.11 and Code of Federal Regulations, Title 42, section 455.23. The Contractor is to withhold payments from a DMC provider during the time a payment suspension is in effect.
 - ii. Contractor shall execute the Confidentiality Agreement, attached as Document 5A. The Confidentiality Agreement permits DHCS to communicate with Contractor concerning subcontracted providers that are subject to administrative sanctions.
- 18. Subcontract Provisions

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 Contractor shall include all of the foregoing provisions in all of its subcontracts.

EE. Beneficiary Problem Resolution Process

- 1. The Contractor shall establish and comply with a beneficiary problem resolution process.
- 2. Contractor shall inform subcontractors and providers at the time they enter into a subcontract about:
 - i. The beneficiary's right to a state hearing, how to obtain a hearing and the representation rules at the hearing.
 - ii. The beneficiary's right to file grievances and appeals and the requirements and timeframes for filing.
 - iii. The beneficiary's right to give written consent to allow a provider, acting on behalf of the beneficiary, to file an appeal. A provider may file a grievance or request a state hearing on behalf of a beneficiary, if the state permits the provider to act as the beneficiary's authorized representative in doing so.
 - iv. The beneficiary may file a grievance, either orally or in writing, and, as determined by DHCS, either with DHCS or with the Contractor.
 - v. The availability of assistance with filing grievances and appeals.
 - vi. The toll-free number to file oral grievances and appeals.
 - vii. The beneficiary's right to request continuation of benefits during an appeal or state hearing filing although the beneficiary may be liable for the cost of any continued benefits if the action is upheld.
 - viii. Any state determined provider's appeal rights to challenge the failure of the Contractor to cover a service.

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- 3. The Contractor shall represent the Contractor's position in hearings, as defined in 42 CFR 438.408 dealing with beneficiaries' appeals of denials, modifications, deferrals or terminations of covered services. The Contractor shall carry out the final decisions of the hearing process with respect to issues within the scope of the Contractor's responsibilities under this Agreement. Nothing in this section is intended to prevent the Contractor from pursuing any options available for appealing a hearing decision.
 - Pursuant to 42 CFR 438.228, the Contractor shall develop problem resolution processes that enable beneficiary to request and receive review of a problem or concern they have about any issue related to the Contractor's performance of its duties, including the delivery of SUD treatment services.
- 4. The Contractor's beneficiary problem resolution processes shall include:
 - i. A grievance process.
 - ii. An appeal process.
 - iii. An expedited appeal process.

FF. Selective Provider Contracting Requirements for DMC-ODS Counties

 The Contractor shall select the DMC-certified providers with whom they contract to establish their DMC-ODS provider networks, with the exception of IHCPs as described in the Article II.B.4 of the Agreement. DMC-certified providers that do not receive a DMC-ODS County contract cannot receive a direct contract with the State to provide services to residents of DMC-ODS Counties.

GG. Contract Denial and Appeal Process

1. The Contractor shall serve providers that apply to be a DMC-ODS contract provider but are not selected a written decision including the basis for the denial. Any solicitation document utilized by the Contractor for the selection of DMC providers must include a protest provision. The Contractor shall have a protest procedure for providers that are not awarded a contract. The protest procedure shall include requirements outlined in Article III.J.5 of this Agreement. Providers that submit a bid to be a contract provider, but are not selected, must exhaust the Contractor's protest procedure if a provider wishes to challenge the denial to DHCS. If the Contractor does not render a decision within 30 calendar days after the protest was filed with the Contractor, the protest shall be deemed denied and the provider may appeal the failure to DHCS. A provider may appeal to DHCS as outlined in Enclosure 4 of BHIN 23-001.

HH. Subcontracts

- In addition to complying with the subcontractual relationship requirements set forth in Article II.E.9 of this Agreement, the Contractor shall ensure that all subcontracts require that the Contractor oversee and is held accountable for any functions and responsibilities that the Contractor delegates to any subcontractor.
- 2. Each subcontract shall:
 - Fulfill the requirements of 42 CFR Part 438 that are appropriate to the service or activity delegated under the subcontract.
 - ii. Ensure that the Contractor evaluates the prospective subcontractor's ability to perform the activities to be delegated.
 - iii. Require a written agreement between the Contractor and the subcontractor that specifies the activities and report responsibilities delegated to the subcontractor, and provides for revoking delegation or imposing other sanctions if the subcontractor's performance is inadequate.

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- iv. Ensure the Contractor monitors the subcontractor's performance on an ongoing basis and subject it to an annual onsite review, consistent with statutes, regulations, and Article III.XX of this Agreement.
- v. Ensure the Contractor identifies deficiencies or areas for improvement, the subcontractor shall take corrective actions and the Contractor shall ensure that the subcontractor implements these corrective actions.
- 3. The Contractor shall include the following provider requirements in all subcontracts with providers:
 - i. Culturally Competent Services: Providers are responsible to provide culturally competent services. Providers shall ensure that their policies, procedures, and practices are consistent with the principles outlined and are embedded in the organizational structure, as well as being upheld in day-today operations. Translation services shall be available for beneficiaries, as needed.
 - ii. Medication Assisted Treatment: DMC-ODS providers, at all levels of care, shall demonstrate that they either directly offer or have an effective referral mechanism to the most clinically appropriate MAT services for beneficiaries with SUD diagnoses that are treatable with medications or biological products (defined as facilitating access to MAT off-site for beneficiaries if not provided on-site. Providing a beneficiary the contact information for a treatment program is insufficient). An appropriate facilitated referral to any Medi-Cal provider rendering MAT to the beneficiary is compliant whether or not that provider seeks reimbursement through DMC-ODS. The Contractor shall monitor the referral process or provision of MAT services.

- iii. Evidence Based Practices (EBPs): The Contractor shall ensure that providers implement at least two of the following EBPs based on the timeline established in the county implementation plan. The two EBPs are per provider, per service modality. The Contractor shall ensure the providers have implemented EBPs and are delivering the practices to fidelity. The State shall monitor the implementation of EBPs during reviews. The EBPs include:
 - a. Motivational Interviewing: A beneficiary-centered, empathic, but directive counseling strategy designed to explore and reduce a person's ambivalence toward treatment. This approach frequently includes other problem solving or solution-focused strategies that build on beneficiaries' past successes.
 - Cognitive-Behavioral Therapy: Based on the theory that most emotional and behavioral reactions are learned and that new ways of reacting and behaving can be learned.
 - c. Relapse Prevention: A behavioral self-control program that teaches individuals with substance addiction how to anticipate and cope with the potential for relapse. Relapse prevention can be used as a stand-alone substance use treatment program or as an aftercare program to sustain gains achieved during initial substance use disorder treatment.
 - d. Trauma-Informed Treatment: Services shall take into account an understanding of trauma, and place priority on trauma survivors' safety, choice and control.

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e. Psycho-Education: Psycho-educational groups are designed to educate beneficiaries about substance abuse, and related behaviors and consequences. Psycho-educational groups provide information designed to have a direct application to beneficiaries' lives, to instill self- awareness, suggest options for growth and change, identify community resources that can assist beneficiaries in recovery, develop an understanding of the process of recovery, and prompt people using substances to take action on their own behalf.

II. Program Integrity Requirements

- 1. Service Verification. To assist DHCS in meeting its obligation under 42 CFR 455.1(a)(2), the Contractor shall establish a mechanism to verify whether services were actually furnished to beneficiaries.
- 2. DMC Claims and Reports
 - i. Contractor or providers that bill DHCS or the Contractor for DMC-ODS services shall submit claims in accordance with the current DHCS DMC-ODS Provider Billing Manual. The DMC-ODS billing manual will be updated to align with new policies. If the billing manual conflicts with guidance outlined in BHIN 23-001, BHIN 23-001 shall be the governing authority.
 - ii. Contractor and subcontractors that provide DMC services shall be responsible for verifying the Medi-Cal eligibility of each beneficiary for each month of service prior to billing for DMC services to that beneficiary for that month. Medi-Cal eligibility verification should be performed prior to rendering service, in accordance with and as described in the DHCS DMC-ODS Provider Billing Manual. Options for verifying the eligibility of a Medi-Cal beneficiary are described in the DHCS DMC-ODS Provider Billing Manual.

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- iii. Claims for DMC reimbursement shall include DMC-ODS services covered under BHIN 23-001 any State Plan services covered under Cal. Code Regs., tit. 22, § 51341.1(c-d) and Contractor administrative charges.
 - Contractor shall submit to DHCS the Drug Medi-Cal Claim Submission Certification (DHCS 100187 or DHCS 100186 for each claim file.
 - b. DMC service claims shall be submitted electronically in a HIPAA-compliant format (837P or 837I). All adjudicated claim information shall be retrieved by the Contractor via an 835 HIPAA compliant format (Health Care Claim Payment/Advice).
- iv. The following forms shall be prepared as needed and retained by the provider for review by state staff:
 - a. Good Cause Certification (6065A), Document 2L(a)
 - b. Good Cause Certification (6065B), Document 2L(b)
 - c. In the absence of good cause documented on the Good Cause Certification (6065A or 6065B) form, claims that are not submitted within six months of the end of the month of service shall be denied. The existence of good cause shall be determined by DHCS in accordance with Cal. Code Regs., tit. 22, § 51008 and 51008.5.
- 3. Contractor Administration Reimbursement
 - Separate from direct service claims as identified above, the Contractor may submit an invoice for administrative costs for administering the DMC-ODS program on a quarterly basis. The form requesting reimbursement shall be submitted to DHCS.
 - a. Scan signed Form MC 5312 and email to: BHFSOps@dhcs.ca.gov
- 4. Quality Assurance and Utilization Review (QA/UR) Reimbursement

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- Separate from direct service claims identified above, the Contractor may submit an invoice for QA/UR for administering the DMC-ODS quality management program on a quarterly basis. The form requesting reimbursement shall be submitted to DHCS.
 - a. Scan signed Form MC 5311 and email to: BHFSOps@dhcs.ca.gov

JJ. Quality Management (QM) Program

- The Contractor's QM Program shall improve Contractor's established treatment outcomes through structural and operational processes and activities that are consistent with current standards of practice.
- The Contractor shall have a written description of the QM Program, which clearly defines the QM Program's structure and elements, assigns responsibility to appropriate individuals, and adopts or establishes quantitative measures to assess performance and to identify and prioritize area(s) for improvement.
- 3. Annually, each Contractor shall:
 - i. Measure and report to DHCS its performance using standard measures required by DHCS including those that incorporate the requirements set forth in Article II.F.1 of this Agreement.
 - ii. Submit to DHCS data specified by DHCS that enables DHCS to measure the Contractor's performance.
 - iii. Perform a combination of the activities described above.
 - iv. Evaluate and update the QM Program annually as necessary as set forth in Article II.F.1 of this Agreement.
- 4. During the review, DHCS shall review the status of the Quality Improvement Plan and the Contractor's monitoring activities.
 - i. This review shall include the counties service delivery system, beneficiary protections, access to services, authorization for services, compliance with regulatory and contractual requirements of the waiver, and a beneficiary records review.

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- ii. This review shall provide DHCS with information as to whether the counties are complying with their responsibility to monitor their service delivery capacity.
- iii. The counties shall receive a final report summarizing the findings of the review, and if out of compliance, the Contractor shall submit a CAP within 60 days of receipt of the final report. DHCS shall follow-up with the CAP to ensure compliance.
- 5. The QM Program shall conduct performance-monitoring activities throughout the Contractor's operations. These activities shall include, but not be limited to, beneficiary and system outcomes, utilization management, utilization review, provider appeals, credentialing and monitoring, and resolution of beneficiary grievances.
- 6. The Contractor shall ensure continuity and coordination of care with physical health care providers. The Contractor shall coordinate with other human services agencies used by its beneficiaries. The Contractor shall assess the effectiveness of any MOU with a physical health care plan.
- 7. The Contractor shall have mechanisms to detect both underutilization of services and overutilization of services, as required by Article II.F.1 of this Agreement.
- 8. The Contractor shall implement mechanisms to assess beneficiary/family satisfaction. The Contractor shall assess beneficiary/family satisfaction by:
 - i. Surveying beneficiary/family satisfaction with the Contractor's services at least annually.
 - ii. Evaluating beneficiary grievances, appeals and hearings at least annually.
 - iii. Evaluating requests to change persons providing services at least annually.
 - iv. The Contractor shall inform providers of the results of beneficiary/family satisfaction activities.

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- The Contractor shall implement mechanisms to monitor the safety and effectiveness of medication practices. The monitoring mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs. Monitoring shall occur at least annually.
- 10. The Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually.
- 11. The Contractor shall have a QM Work Plan covering the current Agreement cycle with documented annual evaluations and documented revisions as needed. The Contractor's QM Work Plan shall evaluate the impact and effectiveness of its quality assessment and performance improvement program. The QM Work Plan shall include:
 - Evidence of the monitoring activities including, but not limited to, review of beneficiary grievances, appeals, expedited appeals, state hearings, expedited state hearings, provider appeals, and clinical records review as required by Article II.F.1 and Article II.G.7 of this Agreement.
 - ii. Evidence that QM activities, including performance improvement projects, have contributed to meaningful improvement in clinical care and beneficiary service.
 - iii. A description of completed and in-process QM activities, including performance improvement projects. The description shall include:
 - a. Monitoring efforts for previously identified issues, including tracking issues over time.
 - b. Objectives, scope, and planned QM activities for each year.
 - c. Targeted areas of improvement or change in service delivery or program design.

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- iv. A description of mechanisms the Contractor has implemented to assess the accessibility of services within its service delivery area. This shall include goals for responsiveness for the Contractor's 24-hour toll-free telephone number, timeliness for scheduling of routine appointments, timeliness of services for urgent conditions, and access to after-hours care.
- 12. Evidence of compliance with the requirements for cultural competence and linguistic competence specified in Article II.B.2 and Article II.E.1 of this Agreement.

KK. State Monitoring - Postservice Postpayment and Postservice Prepayment Utilization Reviews

- 1. DHCS shall conduct Postservice Postpayment and Postservice Prepayment Utilization Reviews of the contracted DMC providers to determine whether the DMC services were provided in accordance with Article III.XX of this exhibit. DHCS shall issue the PSPP report to the Contractor with a copy to subcontracted DMC provider. The Contractor shall be responsible for their subcontracted providers and Contractor-operated programs to ensure any deficiencies are remediated pursuant to Article III.KK.2 The Contractor shall attest the deficiencies have been remediated and are complete, pursuant to Article III.LL.3.iv of this Agreement.
- 2. The Department shall recover payments made if Postservice Postpayment Utilization Review uncovers evidence that the claim(s) should not have been paid, DMC-ODS services have been improperly utilized, and requirements of Article III.XX were not met.
 - i. All deficiencies identified by PSPP reports, whether or not a recovery of funds results, shall be corrected and the Contractor shall submit a Contractor-approved CAP. The CAP shall be submitted using a Secure Managed File Transfer system specified by DHCS within 60 days of the date of the PSPP report.
 - a. The CAP shall:
 - i. Be documented on the DHCS CAP template.

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- ii. Provide a specific description of how the deficiency shall be corrected.
- iii. Identify the title of the individual(s) responsible for:
 - 1. Correcting the deficiency.
 - 2. Ensuring on-going compliance.
- iv. Provide a specific description of how the provider will ensure on-going compliance.
- v. Specify the target date of implementation of the corrective action.
- b. DHCS shall provide written approval of the CAP to the Contractor with a copy to the provider. If DHCS does not approve the CAP, DHCS shall provide guidance on the deficient areas and request an updated CAP from the Contractor with a copy to the provider. Contractor shall submit an updated CAP to the DHCS using a Secure Managed File Transfer system specified by DHCS, within 30 days of notification.
- c. If a CAP is not submitted, or, the provider does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds from the Contractor until the entity that provided the services complies with this Exhibit A, Attachment I. DHCS shall inform the Contractor when funds shall be withheld.
- 3. The Contractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled as follows:
 - i. Requests for first-level appeals:
 - a. The Contractor shall initiate action by submitting a letter to:

Behavioral Health Compliance Section Chief Medical Review Branch, Audits and Investigations Division DHCS

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PO Box 997413, MS 2621 Sacramento, CA 95899-7413

- The Contractor shall submit the letter on the official stationery of the Contractor and it shall be signed by an authorized representative of the Contractor.
- ii. The letter shall identify the specific claim(s) involved and describe the disputed (in) action regarding the claim.
- b. The letter shall be submitted to the address listed in subsection (a) above within 90 calendar days from the date the Contractor received written notification of the decision to disallow claims.
- c. The MCBHD shall acknowledge Contractor letter within 15 calendar days of receipt.
- d. The MCBHD shall inform the Contractor of MCBHD's decision and the basis for the decision within 15 calendar days after the MCBHD's acknowledgement notification. The MCBHD shall have the option of extending the decision response time if additional information is required from the Contractor. The Contractor will be notified if the MCBHD extends the response time limit.
- 4. A Contractor may initiate a second level appeal to the Office of Administrative Hearings and Appeals (OAHA).
 - i. The second level process may be pursued only after complying with first-level procedures and only when:
 - a. The MCBHD has failed to acknowledge the grievance or complaint within 15 calendar days of its receipt, or
 - b. The Contractor is dissatisfied with the action taken by the MCBHD where the conclusion is based on the MCBHD's evaluation of the merits.
 - ii. The second-level appeal shall be submitted to the Office of Administrative Hearings and Appeals within 30 calendar days from the date the MCBHD failed to acknowledge the first-level appeal or from the date of the MCBHD's first-level appeal decision letter.
 - iii. All second-level appeals made in accordance with this section shall be directed to:

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Office of Administrative Hearings and Appeals 1029 J Street, Suite 200, MS 0016 Sacramento, CA 95814

- iv. In referring an appeal to the OAHA, the Contractor shall submit all of the following:
 - a. A copy of the original written appeal sent to the MCBHD.
 - b. A copy of the MCBHD's report to which the appeal applies.

If received by the Contractor, a copy of the MCBHD's specific finding(s), and conclusion(s) regarding the appeal with which the Contractor is dissatisfied.

- 5. The appeal process listed here shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Exhibit B of this Agreement.
- 6. State shall monitor the subcontractor's compliance with Contractor utilization review requirements, as specified in Article III.LL.2 Counties are also required to monitor the subcontractor's compliance pursuant to Article III.HH of this Agreement. The federal government may also review the existence and effectiveness of DHCS' utilization review system.
- 7. Contractor shall, at a minimum, implement and maintain compliance with the requirements described in Article III.XX for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.
- 8. Contractor shall ensure that subcontractor's sites shall keep a record of the beneficiaries/patients being treated at that location. Contractor shall retain beneficiary records for a minimum of ten years, in accordance with 42 CFR 438.3(h), from the finalized cost settlement process with the Department. When an audit by the Federal Government or DHCS has been started before the expiration of the ten-year period, the beneficiary records shall be maintained until completion of the audit and the final resolution of all issues.

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LL. Contractor Oversight_Monitoring

- 1. Interoperability Monitoring
 - i. The Contractor shall ensure that data received from its Network Providers and Subcontractors is accurate and complete by verifying the accuracy and timeliness of reported data; screening the data for completeness, logic, and consistency; and collecting service information in standardized formats to the extent feasible and appropriate. The Contractor shall make all collected data available to DHCS and CMS, upon request.
 - ii. The Contractor shall conduct routine testing and monitoring, and update their systems as appropriate, to ensure the APIs function properly, including conducting assessments to verify that the APIs are fully and successfully implementing privacy and security features such as those required to comply with the HIPAA Security Rule requirements in 45 CFR parts 160 and 164, 42 CFR parts 2 and 3, and other applicable laws protecting the privacy and security of individually identifiable data.
 - iii. The Contractor may deny or discontinue any third-party application's connection to an API if it reasonably determines, consistent with its security risk analysis under the HIPAA Security Rule, that continued access presents an unacceptable level of risk to the security of protected health information on its systems. The determination must be made using objective verifiable criteria that are applied fairly and consistently across all applications and developers, including but not limited to criteria that may rely on automated monitoring and risk mitigation tools.
 - iv. The Contractor shall:
 - a. Comply with the requirements for the Patient Access API and Provider Directory API and must demonstrate their compliance by submitting deliverables as directed by DHCS.
 - b. Update policies and procedures to ensure compliance with this policy.

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- c. Communicate the requirements listed above to all of their Subcontractors and Network Providers.
- d. DHCS may impose a CAP, as well as administrative and/or monetary sanctions for non-compliance.

2. Utilization Monitoring

i. Contractor shall conduct, at least annually, a utilization review of DMC providers to ensure covered services are being appropriately rendered. The annual review shall include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS' County/Provider Operations and Monitoring Branch at:

Department of Health Care Services Medi-Cal Behavioral Health Division 1501 Capitol Avenue, MS-2621 Sacramento, CA 95814

Or by using a Secure Managed File Transfer system specified by DHCS.

The Contractor's reports shall be provided to DHCS within two weeks of completion.

Technical assistance is available to counties from MCBHD.

3. Other Contractor Monitoring

- i. If significant deficiencies or significant evidence of noncompliance with the terms of the DMC-ODS waiver, or this Agreement, are found in a county, DHCS shall engage the Contractor to determine if there are challenges that can be addressed with facilitation and technical assistance. If the Contractor remains noncompliant, the Contractor shall submit a CAP to DHCS. The CAP shall detail how and when the Contractor shall remedy the issue(s). DHCS may remove the Contractor from participating in the Waiver if the CAP is not promptly implemented.
- ii. If the Contractor is removed from participating in the Waiver, the county shall provide DMC services in accordance with the California Medi-Cal State Plan.

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- iii. Contractor shall ensure that DATAR submissions, detailed in Article III.MM of this Exhibit, are complied with by all treatment providers and subcontracted treatment providers. Contractor shall attest that each subcontracted provider is enrolled in DATAR at the time of execution of the subcontract.
- iv. The Contractor shall monitor and attest compliance and/or completion by providers with CAP requirements (detailed in Article III.KK) of this Exhibit as required by any PSPP review. The Contractor shall attest to DHCS, using the form developed by DHCS that the requirements in the CAP have been completed by the Contractor and/or the provider. Submission of DHCS Form 8049 by Contractor shall be accomplished within the timeline specified in the approved CAP, as noticed by DHCS.
- v. Contractor shall attest that DMC claims submitted to DHCS have been subject to review and verification process for accuracy and legitimacy (45 CFR 430.30, 433.32, 433.51). Contractor shall not knowingly submit claims for services rendered to any beneficiary after the beneficiary's date of death, or from disenrolled providers.

MM. Reporting Requirements

- Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports to DHCS, as identified in this Exhibit A, Attachment I or as identified in Document 1F(a), Reporting Requirement Matrix for Counties.
- 2. Contractor shall submit documentation to DHCS in a format specified by DHCS that complies with the following requirements:
 - i. Offers an appropriate range of services that is adequate for the anticipated number of beneficiaries for the service area.
 - ii. Maintains a network of providers that is sufficient in number, mix and geographic distribution to meet the needs of the anticipated number of beneficiaries in the area.
 - iii. Demonstrates the Contractor's compliance with the parity requirements set forth in 42 CFR §438.900 et seq.

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- 3. The Contractor shall submit the documentation described in paragraph (2) of this section as specified by DHCS, but no less frequently than the following:
 - i. At the time it enters into this Agreement with DHCS.
 - ii. At any time, there has been a significant change in the Contractor's operations that would affect adequate capacity, services, and parity, including:
 - a. Changes in Contractor services, benefits, geographic service area or payments.
 - b. Enrollment of a new population in the Contractor.
 - c. Changes in a quantitative limitation or nonquantitative limitation on a substance use disorder benefit.
 - iii. After DHCS reviews the documentation submitted by the Contractor, DHCS shall certify to CMS that the Contractor has complied with the state's requirements for availability of services, as set forth in 42 CFR 438.206, and parity requirements, as set forth in 42 CFR 438.900 et seq.
 - iv. CMS' right to inspect documentation. DHCS shall make available to CMS, upon request, all documentation collected by DHCS from the Contractor.
- California Outcomes Measurement System (CalOMS) for Treatment (CalOMS-Tx)
 - i. The CalOMS-Tx business rules and requirements are:
 - a. Contractor shall contract with a software vendor that complies with the CalOMS-Tx data collection system requirements for submission of CalOMS-Tx data. A Business Associate Agreement (BAA) shall be established between the Contractor and the software vendor. The BAA shall state that DHCS is allowed to return the processed CalOMS-Tx data to the vendor that supplied the data to DHCS.

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- b. Contractor shall conduct information technology (IT) systems testing and pass state certification testing before commencing submission of CalOMS-Tx data. If the Contractor subcontracts with vendor for IT services, Contractor is responsible for ensuring that the subcontracted IT system is tested and certified by the DHCS prior to submitting CalOMS-Tx data. If Contractor changes or modifies the CalOMS-Tx IT system, then Contractor shall re-test and pass state re-certification prior to submitting data from new or modified system.
- c. Electronic submission of CalOMS-Tx data shall be submitted by Contractor within 45 days from the end of the last day of the report month.
- d. Contractor shall comply with data collection and reporting requirements established by the DHCS CalOMS-Tx Data Collection Guide (Document 3J) and all former Department of Alcohol and Drug Programs Bulletins and DHCS Information Notices relevant to CalOMS-Tx data collection and reporting requirements.
- e. Contractor shall submit CalOMS-Tx admission, discharge, annual update, resubmissions of records containing errors or in need of correction, and "provider no activity" report records in an electronic format approved by DHCS.
- f. Contractor shall comply with the CalOMS-Tx Data Compliance Standards established by DHCS identified in (Document 3S) for reporting data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method.
- g. Contractor shall participate in CalOMS-Tx informational meetings, trainings, and conference calls.

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- h. Contractor shall implement and maintain a system for collecting and electronically submitting CalOMS-Tx data.
- Contractor and their software vendor shall meet the requirements as identified in Exhibit F, Privacy and Information Security Provisions.

5. CalOMS-Tx General Information

- i. If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit CalOMS-Tx data, and or meet other CalOMS-Tx compliance requirements, Contractor shall report the problem in writing by secure, encrypted e-mail to DHCS at: ITServiceDesk@dhcs.ca.gov, before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at DHCS' sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld.
- ii. If DHCS experiences system or service failure, no penalties shall be assessed to the Contractor for late data submission.
- iii. Contractor shall comply with the treatment data quality standards established by DHCS. Failure to meet these standards on an ongoing basis may result in withholding non-DMC funds.
- iv. If the Contractor submits data after the established deadlines, due to a delay or problem, the Contractor shall still be responsible for collecting and reporting data from time of delay or problem.
- 6. Drug and Alcohol Treatment Access Report (DATAR)
 - i. The DATAR business rules and requirements:
 - a. The Contractor shall be responsible for ensuring that the Contractor-operated treatment services and all treatment providers with whom Contractor subcontracts or otherwise pays for the services, submit a monthly DATAR report in an electronic copy format as provided by DHCS.

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- b. In those instances where the Contractor maintains, either directly or indirectly, a central intake unit or equivalent, which provides intake services including a waiting list, the Contractor shall identify and begin submitting monthly DATAR reports for the central intake unit by a date to be specified by DHCS.
- c. The Contractor shall ensure that all DATAR reports are submitted to DHCS by the 10th of the month following the report activity month.
- d. The Contractor shall ensure that all applicable providers are enrolled in DHCS' web-based DATAR program for submission of data, accessible on the DHCS website when executing the subcontract.
- e. If the Contractor or its subcontractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit a monthly DATAR report, and/or to meet data compliance requirements, the Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a CAP that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at DHCS' sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld (See Exhibit B, Part II, section 2).
- f. If DHCS experiences system or service failure, no penalties shall be assessed to Contractor for late data submission.
- g. The Contractor shall be considered compliant if a minimum of 95% of required DATAR reports from the Contractor's treatment providers are received by the due date.
- 7. Year-End Cost Settlement Reports

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- The Contractor shall submit, by November 1 of each year, the following year-end claims for reimbursement of administrative and utilization review and quality assurance costs to <u>BHFSOps@dhcs.ca.gov</u>.
 - Form MC 5312: Drug Medi-Cal (DMC) Services Claim for Reimbursement of County Administrative Expenses.
 - Form DHCS 5311: Drug Medi-Cal (DMC) Claim for Reimbursement of Quality Assurance - Utilization Review (QA/UR) Costs.
- 8. Failure to Meet Reporting Requirements
 - Failure to meet required reporting requirements shall result in:
 - a. DHCS shall issue a Notice of Deficiency to Contractor regarding specified providers with a deadline to submit the required data and a request for a CAP to ensure timely reporting in the future. DHCS shall approve or reject the CAP or request revisions to the CAP, which shall be resubmitted to DHCS within 30 days.
 - b. If the Contractor has not ensured compliance with the data submission or CAP request within the designated timeline, then DHCS may withhold funds until all data is submitted. DHCS shall inform the Contractor when funds shall be withheld.

NN. Training

- 1. The Contractor shall ensure their staff, including subcontracted staff providing or administering the DMC-ODS program are trained on the compliance requirements of applicable statutes, regulations, and BHINs.
- 2. Contractor may request additional Technical Assistance or training from MCBHD on an ad hoc basis.
- 3. Training to DMC Subcontractors:

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- The Contractor shall ensure that all subcontractors receive training on the DMC-ODS requirements, at least annually. The Contractor shall report compliance with this section to DHCS annually as part of the DHCS County Monitoring process.
- ii. The Contractor shall require subcontractors to be trained in the ASAM Criteria prior to providing services.
 - a. The Contractor shall ensure that, at minimum, providers and staff conducting assessments are required to complete the two e-Training modules entitled "ASAM Multidimensional Assessment" and "From Assessment to Service Planning and Level of Care". A third module entitled, "Introduction to The ASAM Criteria" is recommended for all county and provider staff participating in the Waiver. With assistance from the state, counties will facilitate ASAM provider trainings.
 - b. The Contractor shall ensure that all residential service providers meet the established ASAM criteria for each level of residential care they provide, receive either a DHCS Level of Care Designation or an ASAM Level of Care Certification for every Level of Care that they offer prior to providing DMC-ODS services, and adhere to all applicable requirements in BHIN 21-001 and its accompanying exhibits.
 - c. The Contractor shall ensure that all personnel who provide WM services or who monitor or supervise the provision of such service shall meet additional training requirements set forth in BHIN 21-001 and its accompanying exhibits.

OO. Program Complaints

 The Contractor shall report complaints to DHCS using a Secure Managed File Transfer system specified by DHCS within two business days of completion.

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- 2. Complaints for Residential Adult Alcoholism or Drug Abuse Recovery or Treatment Facilities, and counselor complaints may be made by using the Complaint Form, which is available and may be submitted online:
 - http://www.dhcs.ca.gov/individuals/Pages/Sud-Complaints.aspx
- 3. Suspected Medi-Cal fraud, waste, or abuse shall be reported to DHCS Medi-Cal Fraud: (800) 822-6222 or Fraud@dhcs.ca.gov.

PP. Record Retention

1. Contractor shall include instructions on record retention and include in any subcontract with providers the mandate to keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to W&I Code section 14124.1 and 42 CFR 438.3(h) and 438.3(u).

QQ. Subcontract Termination

 The Contractor shall notify the Department of the termination of any subcontract with a certified provider, and the basis for termination of the subcontract, within two business days. The Contractor shall submit the notification using a Secure Managed File Transfer system specified by DHCS.

RR. Corrective Action Plan (CAP)

- 1. Unless the Department has specified an applicable CAP process elsewhere in this IA or in a BHIN issued by the DHCS, the Contractor shall comply with the following CAP process if DHCS determines that the Contractor has failed to comply with the terms of this IA, a BHIN issued by the DHCS, the State Plan, 1115 or 1915 Waiver, or any other applicable State or Federal statute or regulation.
- If DHCS determines that the Contractor has failed to comply with any of the requirements listed above, then DHCS may request a CAP from the Contractor to address those deficiencies within a specified timeframe. The Contractor shall submit a CAP to DHCS within the timeframe required by DHCS.
- 3. The Contractor's CAP shall:
 - Be documented on the DHCS CAP template.
 - ii. Provide a specific description of how the deficiency shall be corrected.

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- iii. Identify the title of the individual(s) responsible for:
 - a. Correcting the deficiency
 - b. Ensuring on-going compliance
- iv. Provide a specific description of how the provider will ensure on-going compliance.
- v. Specify the target date of implementation of the corrective action.
- 4. DHCS shall provide written approval of the CAP to the Contractor. If DHCS does not approve the CAP submitted by the Contractor, DHCS shall either: 1) provide guidance on the deficient areas and request an updated CAP from the Contractor with a new deadline for submission; or 2) provide the Contractor with a revised CAP that the Contractor shall comply with.
- 5. If the Contractor fails to submit a CAP or if the Contractor does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds or issue sanctions until the Contractor is in compliance, terminate this Agreement and remove the Contractor from the DMC-ODS Waiver, or take any other actions it deemed necessary to resolve the Contractor's deficiencies. DHCS shall inform the Contractor when funds shall begin to be withheld or when sanctions will begin to be issued.

SS. Quality Improvement (QI) Program

- 1. Contractor shall establish an ongoing quality assessment and performance improvement program consistent with Article II.F.1 of this Agreement.
- The Contractor shall oversee subcontractors' compliance through on-site monitoring reviews and monitoring report submissions to DHCS. The Contractor shall comply with compliance monitoring reviews conducted by DHCS and are responsible to develop and implement CAPs as needed.
- 3. CMS, in consultation with DHCS and other stakeholders, may specify performance measures and topics for performance improvement projects to be required by DHCS in this Agreement.

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- 4. Performance improvement projects shall be designed to achieve, through ongoing measurements and intervention, significant improvement, sustained over time, in clinical care and non-clinical care areas that are expected to have a favorable effect on health outcomes and beneficiary satisfaction.
- 5. The monitoring of accessibility of services outlined in the Quality Improvement (QI) Plan will at a minimum include:
 - i. Timeliness of first initial contact to face-to-face appointment.
 - ii. Frequency of follow-up appointments.
 - iii. Timeliness of services of the first dose of NTP services.
 - iv. Access to after-hours care.
 - v. Responsiveness of the beneficiary access line.
 - vi. Strategies to reduce avoidable hospitalizations.
 - vii. Coordination of physical and mental health services with waiver services at the provider level.
 - viii. Assessment of the beneficiaries' experiences.
 - ix. Telephone access line and services in the prevalent non-English languages.
- 6. The Contractor's QI program shall monitor the Contractor's service delivery system with the aim of improving the processes of providing care and better meeting the needs of its beneficiaries. The QI Program shall be accountable to the Contractor's Director.
- 7. The Contractor shall establish a QI Committee to review the quality of SUD treatment services provided to beneficiaries. The QI Committee shall recommend policy decisions; review and evaluate the results of QI activities, including performance improvement projects; institute needed QI actions; ensure followup of QI processes; and document QI Committee meeting minutes regarding decisions and actions taken.

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- 8. The Contractor's QI Committee shall review the following data at a minimum on a quarterly basis since external quality review (EQR) site reviews will begin after county implementation. The External Quality Review Organization (EQRO) shall measure defined data elements to assess the quality of service provided by the Contractor. These data elements shall be incorporated into the EQRO protocol:
 - i. Number of days to first DMC-ODS service at appropriate level of care after referral.
 - ii. Existence of a 24/7 telephone access line with prevalent non-English language(s).
 - iii. Access to DMC-ODS services with translation services in the prevalent non-English language(s).
- 9. Operation of the QI program shall include substantial involvement by a licensed SUD staff person.
- 10. The QI Program shall include active participation by the Contractor's practitioners and providers, as well as beneficiaries and family members, in the planning, design and execution of the QI Program.
- 11. The Contractor shall maintain a minimum of two active Performance Improvement Projects (PIPs) that meet the criteria in 42 CFR 438.330(b)(1) and (d). Performance improvement projects shall focus on a clinical area, as well as one non-clinical area.

12. PIPs shall:

- i. Measure performance using required quality indicators.
- ii. Implement system interventions to achieve improvement in quality.
- iii. Evaluate the effectiveness of interventions.
- iv. Plan and initiate activities for increasing or sustaining improvement.
- 13. The Contractor shall report the status and results of each PIP to DHCS, as requested.
- 14. Each PIP shall be completed in a reasonable time period so as to generally allow information on the success of PIPs in the aggregate to produce new information on quality of care annually.

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TT. Utilization Management (UM) Program

1. The Contractor shall have a Utilization Management (UM) Program assuring that beneficiaries have appropriate access to SUD services, that services are medically necessary, that the ASAM Criteria shall be used to determine placement into the appropriate level of care, and that the interventions are appropriate for the diagnosis and level of care. The Contractor shall have a documented system for collecting, maintaining and evaluating accessibility to care and waiting list information, including tracking the number of days to first DMC-ODS service at an appropriate level of care following initial request or referral for all DMC-ODS services.

UU. Formation and Purpose

1. Authority

i. The state and the Contractor enter into this Agreement, by authority of Chapter 3 of Part 1, Division 10.5 of the H&S Code and with approval of Contractor's County Board of Supervisors (or designee) for the purpose of providing alcohol and drug services, which shall be reimbursed pursuant to Exhibit B. The state and the Contractor identified in the State Standard (STD) Form 213 are the only parties to this Agreement. This Agreement is not intended, nor shall it be construed, to confer rights on any third party.

2. Control Requirements

- i. Performance under the terms of this Exhibit A, Attachment I, is subject to all applicable federal and state laws, regulations, and standards. The Contractor shall:
 - a. Require its subcontractors to establish written policies and procedures consistent with the requirements listed in 2(c).
 - b. Monitor for compliance with the written procedures.
 - c. Be held accountable for audit exceptions taken by DHCS against the Contractor and its subcontractors for any failure to comply with these requirements:
 - i. H&S Code, Div. 10.5, Part 2, commencing with section 11760.

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- ii. Cal. Code Regs., tit. 9, div. 4, chapter 8, commencing with § 13000.
- iii. Gov. Code section 16367.8.
- iv. Title 42, CFR, sections 8.1 through 8.6.
- v. Title 21, CFR, sections 1301.01 through 1301.93, Department of Justice, Controlled Substances.
- vi. State Administrative Manual (SAM), Chapter 7200 (General Outline of Procedures).
- 3. The Contractor shall be familiar with the above laws, regulations, and guidelines and shall ensure that its subcontractors are also familiar with such requirements.
- 4. The provisions of this Exhibit A, Attachment I are not intended to abrogate any provisions of law or regulation, or any standards existing or enacted during the term of this Agreement.

VV. Performance Provisions

- 1. Monitoring
 - The Contractor's performance under this Exhibit A, Attachment I, shall be monitored by DHCS annually during the term of this Agreement. Monitoring criteria shall include, but not be limited to:
 - a. Whether the quantity of work or services being performed conforms to this Exhibit.
 - b. Whether the Contractor has established and is monitoring appropriate quality standards.
 - c. Whether the Contractor is abiding by all the terms and requirements of this Agreement.
 - d. Contractor shall conduct annual onsite monitoring reviews of services and subcontracted services for programmatic and fiscal requirements. Contractor shall submit copy of their monitoring and audit reports to DHCS within two weeks of issuance. Reports should be sent by using a Secure Managed File Transfer system specified by DHCS.

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ii. Failure to comply with the above provisions shall constitute grounds for DHCS to suspend or recover payments, subject to the Contractor's right of appeal, or may result in termination of this Agreement or both.

2. Performance Requirements

- The Contractor shall provide services based on funding set forth in Exhibit B, Attachment I, and under the terms of this Agreement.
- The Contractor shall provide services to all eligible persons in accordance with federal and state statutes and regulations.
- iii. The Contractor shall ensure that in planning for the provision of services, the following barriers to services are considered and addressed:
 - a. Lack of educational materials or other resources for the provision of services.
 - b. Geographic isolation and transportation needs of persons seeking services or remoteness of services.
 - c. Institutional, cultural, and/or ethnicity barriers.
 - d. Language differences.
 - e. Lack of service advocates.
 - f. Failure to survey or otherwise identify the barriers to service accessibility.
 - g. Needs of persons with a disability.
- The Contractor shall comply with any additional requirements of the documents that have been incorporated by reference, including, but not limited to, those in the Exhibit A – Statement of Work.
- 4. Amounts awarded pursuant to Exhibit B, Attachment I shall be used exclusively for providing DMC-ODS services consistent with the purpose of the funding.

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- 5. DHCS shall issue a report to Contractor after conducting monitoring or utilization reviews of county or county subcontracted providers. When the DHCS report identifies non-compliant services or processes, it shall require a CAP. The Contractor, or in coordination with its subcontracted provider, shall submit a CAP using a Secure Managed File Transfer system specified by DHCS, within 60 calendar days from the date of the report.
- 6. The CAP shall follow the requirements in Article III.RR.2.

WW. Documentation Requirements

- 1. The Contractor shall comply with all State and federal statutes and regulations, the terms of this Agreement relating to documentation, BHIN 22-019, and any additional BHINs issued pursuant to W&I Code section 14184.402.
- 2. In the event of a conflict between the terms of this Agreement relating to documentation and a State or federal statute or regulation, or a BHIN issued pursuant to W&I Code section 14184.402, the Contractor shall adhere to the applicable statue, regulation, BHIN 22-019, or any other applicable BHINs issued pursuant to W&I Code section 14184.402.

XX. Requirements for Services

- 1. Confidentiality.
 - All SUD treatment services shall be provided in a confidential setting in compliance with 42 CFR, Part 2 requirements.
- Perinatal Services.
 - i. Perinatal services shall address treatment and recovery issues specific to pregnant and postpartum beneficiaries, such as relationships, sexual and physical abuse, and development of parenting skills.
 - ii. Perinatal services shall include:
 - a. Parent/child habilitative and rehabilitative services (i.e., development of parenting skills, training in child development, which may include the provision of cooperative childcare pursuant to H&S Code Section 1596.792).

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- Service access (i.e., provision of or arrangement for transportation to and from medically necessary treatment).
- c. Education to reduce harmful effects of alcohol and drugs on the parent and fetus or the parent and infant.
- d. Coordination of ancillary services (i.e., assistance in accessing and completing dental services, social services, community services, educational/vocational training and other services which are medically necessary to prevent risk to fetus or infant).
- iii. Medical documentation that substantiates the beneficiary's pregnancy and the last day of pregnancy shall be maintained in the beneficiary record.
- iv. Contractor shall comply with the perinatal program requirements as outlined in the Perinatal Practice Guidelines. The Perinatal Practice Guidelines are attached to this Agreement as Document 1G, incorporated by reference. The Contractor shall comply with the current version of these guidelines until new Perinatal Practice Guidelines are established and adopted. The incorporation of any new Perinatal Practice Guidelines into this Agreement shall not require a formal amendment.
- 3. Substance Use Disorder Medical Director.
 - i. The SUD Medical Director's responsibilities shall, at a minimum, include all of the following:
 - a. Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care.
 - b. Ensure that physicians do not delegate their duties to non-physician personnel.
 - c. Develop and implement written medical policies and standards for the provider.
 - d. Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards.
 - e. Ensure that the medical decisions made by physicians are not influenced by fiscal considerations.

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- f. Ensure that provider's physicians and LPHAs are adequately trained to perform diagnosis of substance use disorders for beneficiaries, and determine services are medically necessary.
- g. Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.
- ii. The SUD Medical Director may delegate their responsibilities to a physician consistent with the provider's medical policies and standards; however, the SUD Medical Director shall remain responsible for ensuring all delegated duties are properly performed.

4. Provider Personnel.

- Personnel files shall be maintained on all employees, contracted positions, volunteers, and interns, and shall contain the following:
 - a. Application for employment and/or resume.
 - b. Signed employment confirmation statement/duty statement.
 - c. Job description.
 - d. Performance evaluations.
 - e. Health records/status as required by the provider, AOD Certification or Cal. Code Regs., tit. 9.
 - f. Other personnel actions (e.g., commendations, discipline, status change, employment incidents and/or injuries).
 - g. Training documentation relative to substance use disorders and treatment.
 - h. Current registration, certification, intern status, or licensure.
 - i. Proof of continuing education required by licensing or certifying agency and program.
 - j. Provider's Code of Conduct.
 - k. Documentation of completion of personnel requirements set forth in BHIN 21-001 for personnel providing detoxification checks.

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- ii. Job descriptions shall be developed, revised as needed, and approved by the provider's governing body. The job descriptions shall include:
 - a. Position title and classification.
 - b. Duties and responsibilities.
 - c. Lines of supervision.
 - d. Education, training, work experience, and other qualifications for the position.
- iii. Written provider code of conduct for employees and volunteers/interns shall be established which addresses at least the following:
 - a. Use of drugs and/or alcohol.
 - b. Prohibition of social/business relationship with beneficiaries or their family members for personal gain.
 - c. Prohibition of sexual contact with beneficiaries.
 - d. Conflict of interest.
 - e. Providing services beyond scope.
 - f. Discrimination against beneficiaries or staff.
 - g. Verbally, physically, or sexually harassing, threatening or abusing beneficiaries, family members or other staff.
 - h. Protection of beneficiary confidentiality.
 - i. Cooperate with complaint investigations.
- iv. If a provider utilizes the services of volunteers and/or interns, written procedures shall be implemented which address:
 - a. Recruitment.
 - b. Screening and Selection.
 - c. Training and orientation.
 - d. Duties and assignments.
 - e. Scope of practice.
 - f. Supervision.
 - g. Evaluation.
 - h. Protection of beneficiary confidentiality.

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v. Written roles and responsibilities and a code of conduct for the Medical Director shall be clearly documented, signed and dated by a provider representative and the physician.

IV. Definitions

- **A.** The words and terms of this Agreement are intended to have their usual meaning unless a specific or more limited meaning is associated with their usage pursuant to the H&S Code, Title 6.
 - 1. "Abuse" means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program.
 - 2. "Adolescents" means beneficiaries under age 21.
 - 3. "Administrative Costs" means the Contractor's actual direct costs, as recorded in the Contractor's financial records and supported by source documentation, to administer the program or an activity to provide service to the DMC-ODS program. Administrative costs do not include the cost of treatment or other direct services to the beneficiary. Administrative costs may include, but are not limited to, the cost of training, programmatic and financial audit reviews, and activities related to billing. Administrative costs may include Contractor's overhead per the approved indirect cost rate proposal pursuant to OMB Omni-Circular and the State Controller's Office Handbook of Cost Plan Procedures.
 - 4. "Adult" means beneficiaries 21 years of age or over.
 - **5.** "Adverse benefit determination" means, in the case of an MCO, PIHP, or PAHP, any of the following:
 - (1) The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for DMC-ODS criteria for services, appropriateness, setting, or effectiveness of a covered benefit.

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- (2) The reduction, suspension, or termination of a previously authorized service.
- (3) The denial, in whole or in part, of payment for a service.
- (4) The failure to provide services in a timely manner, as defined by the state.
- (5) The failure of an MCO, PIHP, or PAHP to act within the timeframes provided in 42 CFR 438.408(b)(1) and (2) regarding the standard resolution of grievances and appeals.
- (6) For a resident of a rural area with only one MCO, the denial of beneficiary's request to exercise their right, under 42 CFR 438.52(b)(2)(ii), to obtain services outside the network.
- (7) The denial of a beneficiary's request to dispute a financial liability, copayments, premiums, deductibles, coinsurance, and other beneficiary financial liabilities.
- 6. "Alcohol or other Drug (AOD) Counselor" means 1) either certified or registered by an organization that is recognized by the Department of Health Care Services and accredited with the National Commission for Certifying Agencies (NCCA), and 2) meets all California State education, training, and work experience requirements set forth in the Counselor Certification Regulations, Cal. Code Regs., tit. 9, div. 4, chapter 8.
- 7. "American Indian and Alaska Native (Al/AN)" means any person defined in 25 United States Code sections 1603(13), 1603(28), or section 1679(a), or who has been determined eligible as an Indian under 42 CFR section 136.12.
- **8.** "Ancillary Service" means to include individualized connection, referral, and linkages to community-based services and supports.
- **9.** "Appeal" is the request for review of an adverse benefit determination.

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- **10.** "ASAM Criteria" means comprehensive set of guidelines for placement, continued stay, transfer, or discharge of patients with addiction and co-occurring conditions.
- 11. "Assessment" means activities to evaluate or monitor the status of a beneficiary's behavioral health and determine the appropriate level of care and course of treatment for that beneficiary. Assessments shall be conducted in accordance with applicable State and Federal laws, and regulations, and standards. Assessment may be initial and periodic, and may include contact with family members or other collaterals if the purpose of the collateral's participation is to focus on the treatment needs of the beneficiary. Assessment services may include one or more of the following components:
 - (1) Collection of information for assessment used in the evaluation and analysis of the cause or nature of the substance use disorder.
 - (2) Diagnosis of substance use disorders utilizing the current DSM and assessment of treatment needs for medically necessary treatment services. This may include a physical examination necessary for treatment and evaluation.
 - (3) Treatment planning, a service activity that consists of development and updates to documentation needed to plan and address the beneficiary's needs, planned interventions and to address and monitor a beneficiary's progress and restoration of a beneficiary to their best possible functional level.
- **12.** "Authorization" is the approval process for DMC-ODS Services prior to the submission of a DMC claim.
- **13.** "Available Capacity" means the total number of units of service (bed days, hours, slots, etc.) that a Contractor actually makes available in the current fiscal year.

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- 14. "Beneficiary" means a person who: (a) has been determined eligible for Medi-Cal; (b) is not institutionalized; (c) has a substance-related disorder per the current "Diagnostic and Statistical Manual of Mental Disorders (DSM)" criteria; and (d) meets the admission criteria to receive DMC covered services.
- **15.** "Beneficiary/Enrollee Encounter Data" means the information relating to the receipt of any item(s) or service(s) by a beneficiary under a contract between a state and a MCO, PIHP, or PAHP that is subject to the requirements of 42 CFR §§438.242 and 438.818.
- **16.** "Beneficiary Handbook" is the state developed model beneficiary handbook.
- **17.** "Calendar Week" means the seven-day period from Sunday through Saturday.
- **18.** "Certified Provider" means a substance use disorder clinic location that has received certification to be reimbursed as a DMC clinic by the state to provide services as described in Cal Code Regs., tit. 22, section 51341.1.
- **19.** "Complaint" means requesting to have a problem solved or have a decision changed because you are not satisfied. A complaint is sometimes called a grievance or an appeal.
- **20.** "Contractor" means the county identified in the Standard Agreement or DHCS authorized by the County Board of Supervisors to administer substance use disorder programs.
- **21.** "Corrective Action Plan (CAP)" means the written plan of action document which the Contractor or its subcontracted service provider develops and submits to DHCS to address or correct a deficiency or process that is non-compliant with laws, regulations or standards.
- **22.** "County" means the county in which the Contractor physically provides covered substance use treatment services.
- 23. "County of Responsibility" means the field in MEDS that indicates the county that has control of the case record in MEDS

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and is the county that can make eligibility and demographic information updates to the MEDS record. This county has financial responsibility for behavioral health services, consistent with the county contract with DHCS. Providers can verify Medi-Cal eligibility in three ways: POS system (BIC Card reader), Automated Eligibility Verification system (AEVS) 1 or the Medi-Cal website.

- **24.** "County Realignment Funds" means Behavioral Health Subaccount funds received by the County as per Gov. Code, § 30025.
- **25.** "Days" means calendar days, unless otherwise specified.
- 26. "Dedicated Capacity" means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide DMC-ODS services to persons eligible for Contractor services.
- 27. "Discrimination Grievance" means a complaint concerning the unlawful discrimination on the basis of any characteristic protected under federal or state law, including sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.
- 28. "DMC-ODS Services" means DMC-ODS services authorized by Title XIX or Title XXI of the Social Security Act; Title 22 Section 51341.1; W&I Code sections 14124.24, 14184.100 et seq.; California's Medicaid State Plan; the CalAIM Section 1115 Demonstration Renewal Waiver; Section 1915(b) Waiver; BHIN 23-001.

- 29. "Drug Medi-Cal Organized Delivery System" is a Medi-Cal benefit in counties that choose to opt into and implement the program. DMC-ODS shall be available as a Medi-Cal benefit for individuals who meet the DMC-ODS Program criteria for services and reside in a county that opts into the program. Upon approval of an implementation plan, the state shall contract with the county to provide DMC-ODS services. The county shall, in turn, contract with DMC enrolled providers or provide county-operated services to provide all services outlined in the DMC-ODS. Counties may also contract with a managed care plan to provide services. Participating counties with the approval from the state may develop regional delivery systems for one or more of the required modalities or request flexibility in delivery system design or comparability of services. Counties may act jointly in order to deliver these services.
- **30.** "Drug Medi-Cal Program" means the state system wherein beneficiaries receive covered services from DMC-certified substance use disorder treatment providers.
- **31.** "Drug Medi-Cal Termination of Certification" means the provider is no longer certified to participate in the Drug Medi-Cal program upon the state's issuance of a Drug Medi-Cal certification termination notice.
- 32. "Early Periodic Screening, Diagnosis, and Treatment Program (EPSDT)" means the federal mandate under Section 1905(r) of the Act, which requires the Contractor ensure that all beneficiaries under age 21 receive all applicable SUD services needed to correct or ameliorate health conditions that are coverable under Section 1905(a) of the Act. Nothing in the DMC-ODS limits or modifies the scope of the EPSDT mandate.
- **33.** "Education and Job Skills" means linkages to life skills, employment services, job training, and education services.

- **34.** "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:
 - (1) Placing the health of the individual (or, for a pregnant beneficiary, the health of the beneficiary or their unborn child) in serious jeopardy.
 - (2) Serious impairment to bodily functions.
 - (3) Serious dysfunction of any bodily organ or part.
- **35.** "Excluded Services" means services that are not covered under this Agreement.
- **36.** "Expanded Substance Use Disorder Treatment Services" means services listed in Supplement 3 to Attachment 3.1-A of the California Medi-Cal State Plan.
- **37.** "Face-to-Face" means a service occurring in person.
- 38. "Family Therapy" means a rehabilitative service that includes family members in the treatment process, providing education about factors that are important to the beneficiary's recovery as well as the holistic recovery of the family system. Family members can provide social support to the beneficiary and help motivate their loved one to remain in treatment. There may be times when, based on clinical judgment, the beneficiary is not present during the delivery of this service, but the service is for the direct benefit of the beneficiary.
- **39.** "Federal Financial Participation (FFP)" means the share of federal Medicaid funds for reimbursement of DMC services.

- **40.** "Final Settlement" means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end claim for reimbursement of administrative and utilization review and quality assurance costs was accepted by the state. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.
- **41.** "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or state law.
- 42. "Grievance" means an expression of dissatisfaction about any matter other than an adverse benefit determination. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the beneficiary's rights regardless of whether remedial action is requested, and the beneficiary's right to dispute an extension of time proposed by the MCO, PIHP or PAHP to make an authorization decision
- **43.** "Grievance and Appeal System" means the processes the MCO, PIHP, or PAHP implements to handle appeals of an adverse benefit determination and grievances, as well as the processes to collect and track information about them.

- 44. "Group Counseling" consists of contacts with multiple beneficiaries at the same time. Group Counseling shall focus on the needs of the participants. Group counseling means contacts in which one or more therapists or counselors treat two or more beneficiaries at the same time with a maximum of 12 in the group, focusing on the needs of the individuals served. A beneficiary that is 17 years of age or younger shall not participate in-group counseling with any participants who are 18 years of age or older. However, a beneficiary who is 17 years of age or younger may participate in group counseling with participants who are 18 years of age or older when the counseling is at a provider's certified school site.
- **45.** "Hospitalization" means that a patient needs a supervised recovery period in a facility that provides hospital inpatient care.
- **46.** "Indian Health Service (IHS)" means facilities and/or health care programs administered and staffed by the federal Indian Health Service.
- 47. "Individual Counseling" consists of contacts with a beneficiary. Individual counseling can include contact with family members or other collaterals if the purpose of the collateral's participation is to focus on the treatment needs of the beneficiary by supporting the achievement of the beneficiary's treatment goals.
- **48.** "Interim Settlement" means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.
- **49.** "Key Points of Contact" means common points of access to substance use treatment services from the county, including but not limited to the county's beneficiary problem resolution process, county owned or operated or contract hospitals, and any other central access locations established by the county.

- **50.** "Long-Term Services and Supports (LTSS)" means services and supports provided to beneficiaries of all ages who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the beneficiary to live or work in the setting of their choice, which may include the individual's home, a worksite, a provider-owned or controlled residential setting, a nursing facility, or other institutional setting.
- 51. "Licensed Practitioners of the Healing Arts (LPHA)" includes: includes any of the following: Physician, Nurse Practitioner (NP), Physician Assistant (PA), Registered Nurse, Registered Pharmacist, Licensed Clinical Psychologist (LCP), Licensed Clinical Social Worker (LCSW), Licensed Professional Clinical Counselor (LPCC), and Licensed Marriage and Family Therapist (LMFT), and licensed-eligible practitioner registered with the Board of Psychology or Behavioral Science Board working under the supervision of a licensed clinician.
- **52.** "Managed Care Organization (MCO)" means an entity that has, or is seeking to qualify for, comprehensive risk contract under Title 42 CFR part 438, and that is:
 - (1) A Federally qualified HMO that meets the advance directives requirements of subpart I of part 489 of Title 42 CFR, Chapter 4, Subchapter G: or
 - (2) Any public or private entity that meets the advance directives requirements and is determined by the Secretary to also meet the following conditions:
 - (i) Makes the services it provides to its Medicaid beneficiaries as accessible (in terms of timeliness, amount, duration, and scope) as those services are to other Medicaid beneficiaries within the area served by the entity.
 - (ii) Meets the solvency standards of the §438.116.
- **53.** "Managed Care Program" means a managed care delivery system operated by a state as authorized under sections 1915(a), 1915(b), 1932(a), or 1115(a) of the Act.

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- **54.** "Maximum Payable" means the encumbered amount reflected on the Standard Agreement of this Agreement and supported by Exhibit B, Attachment I.
- **55.** "Medical psychotherapy" means a counseling service to treat SUD other than OUD conducted by the medical director of a Narcotic Treatment Program on a one-to-one basis with the beneficiary.
- 56. "Medication Services" means the prescription or administration of medication related to SUD services, or the assessment of the side effects or results of the medication. Medication Services does not include MAT for OUD or MAT for Alcohol Use Disorders (AUD) and other Non-Opioid Substance Use Disorders. Medication Services includes prescribing, administering, and monitoring medications used in the treatment or management of SUD and/or withdrawal management not included in the definitions of MAT for OUD or MAT for AUD services.
- 57. "Medications for Addiction Treatment for Alcohol Use Disorders (AUD) and Non-Opioid Substance Use Disorders" includes all FDA-approved drugs and services to treat AUD and other non-opioid SUDs involving FDA-approved medications to treat AUD and non-opioid SUDs.
- **58.** "Medications for Addiction Treatment for Opioid Use Disorders (OUD)" includes all medications approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) to treat OUD.
- **59.** "*Modality*" means those necessary overall general service activities to provide substance use disorder services as described in Division 10.5 of the H&S Code.
- **60.** "Network" means the group of entities that have contracted with the PIHP to provide services under this Agreement.

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- 61. "Network Provider" means any provider, group of providers, or entity that has a network provider agreement with a MCO, PIHP, PAHP, or a subcontract, and receives Medicaid funding directly or indirectly to order, refer or render covered services as a result of the state's contract with an MCO, PIHP or PAHP. A network provider is not a subcontractor by virtue of the network provider agreement.
- **62.** "Non-participating provider" means a provider that is not engaged in the continuum of services under this Agreement.
- **63.** "Non-Perinatal Residential Program" services are provided in DHCS licensed residential facilities that also have DMC certification and have been designated by DHCS as capable of delivering care consistent with ASAM treatment criteria. These residential services are provided to the non-perinatal population and do not require the enhanced services found in the perinatal residential programs.
- **64.** "Non-Quantitative Treatment Limitation (NQTL)" means a limit on the scope or duration of benefits that is not expressed numerically. Non-quantitative treatment limitations include:
 - Medical management standards limiting or excluding benefits based on DMC-ODS criteria for services or medical appropriateness, or based on whether the treatment is experimental or investigative.
 - ii. Formulary design for prescription drugs.
 - iii. Network tier design.
 - iv. Standards for provider admission to participate in a network, including reimbursement rates.
 - v. Methods for determining usual, customary, and reasonable charges.
 - vi. Refusal to pay for higher-cost therapies until it can be shown that a lower-cost therapy is not effective (also known as fail-first policies or step therapy protocols.
 - vii. Exclusions based on failure to complete a course of treatment.
 - viii. Restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services.

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- ix. Standards for providing access to out-of-network providers.
- **65.** "Nonrisk Contract" means a contract between the state and a PIHP or PAHP under which the Contractor:
 - (1) Is not at financial risk for changes in utilization or for costs incurred under the contract that do not exceed the upper payment limits specified in 42 CFR 447.362.
 - (2) May be reimbursed by the state at the end of the contract period on the basis of the incurred costs, subject to the specified limits.
- **66.** "Notice of Adverse Benefit Determination (NOABD)" means a formal communication of any action and consistent with 42 CFR 438.404 and 438.10.
- **67.** "Observation" means the process of monitoring the beneficiary's course of withdrawal. The Contractor shall ensure observation be conducted at the frequency required by applicable state and federal laws, regulations, and standards. This may include but is not limited to observation of the beneficiary's health status.
- **68.** "Overpayment" means any payment made to a network provider by a MCO, PIHP, or PAHP to which the network provider is not entitled to under Title XIX of the Act or any payment to a MCO, PIHP, or PAHP by a state to which the MCO, PIHP, or PAHP is not entitled to under Title XIX of the Act
- **69.** "Patient Education" means education for the beneficiary on addiction, treatment, recovery and associated health risks.
- **70.** "Participating Provider" means a provider that is engaged in the continuum of services under this Agreement.
- **71.** "Payment Suspension" means the Drug Medi-Cal certified provider has been issued a notice pursuant to W&I Code section 14107.11 and is not authorized to receive payments after the payment suspension date for DMC services, regardless of when the service was provided.

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- 72. "Peer Support Services" means culturally competent individual and group services that promote recovery, resiliency, engagement, socialization, self-sufficiency, self-advocacy, development of natural supports, and identification of strengths through structured activities such as group and individual coaching to set recovery goals and identify steps to reach the goals. Services aim to prevent relapse, empower beneficiaries through strength-based coaching, support linkages to community resources, and to educate beneficiaries and their families about their conditions and the process of recovery. Medi-Cal Peer Support Services consist of Educational Skill Building Groups, Engagement and Therapeutic Activity services.
- 73. "Peer Support Specialist" means an individual in recovery with a current State-approved Medi-Cal Peer Support Specialist Certification Program certification and must meet all other applicable California state requirements, including ongoing education requirements. Peer Support Specialists provide services under the direction of a Behavioral Health Professional.
- **74.** "Performance" means providing the dedicated capacity in accordance with Exhibit B, Attachment I, and abiding by the terms of this Exhibit A, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards (Document 1P), if applicable, in expending funds for the provision of SUD services hereunder.
- **75.** "Perinatal DMC Services" means covered services as well as parent/child habilitative and rehabilitative services; services access (i.e., provision or arrangement of transportation to and from medically necessary treatment); education to reduce harmful effects of alcohol and drugs on the parent and fetus or infant; and coordination of ancillary services (Cal. Code Regs., tit. 22, § 51341.1(c)(4)).
- **76.** "Physician" as it pertains to the supervision, collaboration, and oversight requirements in sections 1861(aa)(2)(B) and (aa)(3) of the Act, a doctor of medicine or osteopathy legally authorized to practice medicine or surgery in the State in which the function is performed.

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- 77. "Physician services" means services provided by an individual licensed under state law to practice medicine.
- **78.** "Plan" means any written arrangement, by one or more entities, to provide health benefits or medical care or assume legal liability for injury or illness.
- **79.** "Postpartum" as defined for DMC purposes, means the 365-day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility for perinatal services shall end on the last day of the calendar month in which the 365th day occurs.
- 80. "Postservice Postpayment (PSPP) Utilization Review" means the review for program compliance conducted by the state after service was rendered and paid. The Department may recover prior payments of Federal and state funds if such a review determines that the services did not comply with the applicable statutes, regulations, or terms as specified in Article III.XX of this Agreement.
- **81.** "Potential Beneficiary/Enrollee" means a Medicaid beneficiary who is subject to mandatory enrollment or may voluntarily elect to enroll in a given MCO, PIHP, PAHP, PCCM or PCCM entity, but is not yet a beneficiary of a specific MCO, PIHP, PAHP, PCCM, or PCCM entity.
- **82.** "Preauthorization" means approval by the Plan that a covered service is medically necessary.
- 83. "Prepaid Ambulatory Health Plan (PAHP)" means an entity that:
 - (1) Provides services to beneficiaries under contract with the state, and on the basis of capitation payments, or other payment arrangements that do not use State Plan payment rates.
 - (2) Does not provide or arrange for, and is not otherwise responsible for the provision of any inpatient hospital or institutional services for its beneficiaries; and
 - (3) Does not have a comprehensive risk contract.

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84. "Prepaid Inpatient Health Plan (PIHP)" means an entity that:

- (1) Provides services to beneficiaries under contract with the state, and on the basis of capitation payments, or other payment arrangements that do not use State Plan payment rates.
- (2) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its beneficiaries.
- (3) Does not have a comprehensive risk contract.
- **85.** "Prescription drugs" means simple substances or mixtures of substances prescribed for the cure, mitigation, or prevention of disease, or for health maintenance that are:
 - (1) Prescribed by a physician or other licensed practitioner of the healing arts within the scope of this professional practice as defined and limited by Federal and State law.
 - (2) Dispensed by licensed pharmacists and licensed authorized practitioners in accordance with the State Medical Practice Act.
 - (3) Dispensed by the licensed pharmacist or practitioner on a written prescription that is recorded and maintained in the pharmacist's or practitioner's records.
- 86. "Primary Care" means all health care services and laboratory services customarily furnished by or through a general practitioner, family physician, internal medicine physician, obstetrician/gynecologist, pediatrician, or other licensed practitioner as authorized by the State Medicaid program, to the extent the furnishing of those services is legally authorized in the state in which the practitioner furnishes them.
- 87. "Primary Care Case Management Entity (PCCM entity)" means an organization that provides any of the following functions, in addition to primary care case management services, for the state:
 - (1) Provision of intensive telephonic or face-to-face case management, including operation of a nurse triage advice line.

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- (2) Development of beneficiary care plans.
- (3) Execution of contracts with and/or oversight responsibilities for the activities of FFS providers in the FFS program.
- (4) Provision of payments to FFS providers on behalf of the State.
- (5) Provision of beneficiary outreach and education activities.
- (6) Operation of a customer service call center.
- (7) Review of provider claims, utilization and practice patterns to conduct provider profiling and/or practice improvement.
- (8) Implementation of quality improvement activities including administering beneficiary satisfaction surveys or collecting data necessary for performance measurement of providers.
- (9) Coordination with behavioral health systems/providers.
- (10) Coordination with long-term services and supports systems/providers.
- **88.** "Primary Care Case Manager (PCCM)" means a physician, a physician group practice or, at State option, any of the following:
 - (1) A physician assistant
 - (2) A nurse practitioner
 - (3) A certified nurse-midwife
- **89.** "Primary care physician (PCP)" means a Physician responsible for supervising, coordinating, and providing initial and Primary Care to patients and serves as the medical home for Members. The PCP is a general practitioner, internist, pediatrician, family practitioner, or obstetrician/gynecologist.
- **90.** "Primary care provider" means a person responsible for supervising, coordinating, and providing initial and Primary Care to patients, for initiating referrals, and for maintaining the continuity of patient care. A Primary Care Provider may be a Primary Care Physician or Non-Physician Medical Practitioner.

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- **91.** "Projected Services" means the number of reimbursable of service, based on historical data and current capacity, the Contractor expects to provide on an annual basis.
- **92.** "Provider" means any individual or entity that is engaged in the delivery of services, or ordering or referring for those services, and is legally authorized to do so by the state in which it delivers the services.
- 93. "Provider-preventable condition" means a condition that meets the definition of a health care-acquired condition a condition occurring in any inpatient hospital setting, identified as a health care-acquired condition by the Secretary under section 1886(d)(4)(D)(iv) of the Act for purposes of the Medicare program identified in the State Plan as described in section 1886(d)(4)(D)(ii) and (iv) of the Act; other than Deep Vein Thrombosis /Pulmonary Embolism as related to total knee replacement or hip replacement surgery in pediatric and obstetric patients or an "other provider-preventable condition," which is defined as a condition occurring in any health care setting that meets the following criteria:
 - (1) Is identified in the State Plan.
 - (2) Has been found by the state, based upon a review of medical literature by qualified professionals, to be reasonably preventable through the application of procedures supported by evidence-based guidelines.
 - (3) Has a negative consequence for the beneficiary.
 - (4) Is auditable.
 - (5) Includes, at a minimum, wrong surgical or other invasive procedure performed on a patient; surgical or other invasive procedure performed on the wrong body part; surgical or other invasive procedure performed on the wrong patient.
- 94. "Quality Assessment/Utilization Review (QA/UR)" activities are reviews of physicians, health care practitioners and providers of health care services in the provision of health care services and items for which payment may be made to determine whether:

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- (1) Such services are or were reasonable and medically necessary and whether such services and items are allowable.
- (2) The quality of such services meets professionally recognized standards of health care.
- **95.** "Quantitative Treatment Limitation (QTL)" means a limit on the scope or duration of a benefit that is expressed numerically.
- **96.** "Re-certification" means the process by which the DMC certified clinic is required to submit an application and specified documentation, as determined by DHCS, to remain eligible to participate in and be reimbursed through the DMC program. Recertification shall occur no less than every five years from the date of previous DMC certification or re-certification.
- **97.** "Recovery monitoring" means recovery coaching, monitoring designed for the maximum reduction of the beneficiary's SUD.
- 98. "Recovery Services" means a DMC-ODS service designed to support recovery and prevent relapse with the objective of restoring the beneficiary to their best possible functional level. Recovery Services emphasize the beneficiary's central role in managing their health, use effective self-management support strategies, and organize internal and community resources to provide ongoing self-management support to beneficiaries.
- **99.** "Rehabilitation Services" includes any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of their practice under state law, for maximum reduction of physical or mental disability and restoration of a beneficiary to their best possible functional level.
- **100.** "Relapse" means a single instance of a beneficiary's substance use or a beneficiary's return to a pattern of substance use.
- **101.** "Relapse Trigger" means an event, circumstance, place or person that puts a beneficiary at risk of relapse.

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- **102.** "Revenue" means Contractor's income from sources other than the state allocation.
- **103.** "Safeguarding medications" means facilities will store all resident medication and facility staff members may assist with resident's self-administration of medication.
- **104. "Service Area"** means the geographical area under the Contractor's jurisdiction.
- **105.** "Service Authorization Request" means a beneficiary's request for the provision of a service.
- **106.** "Short-Term Resident" means any beneficiary receiving residential services pursuant to DMC-ODS, regardless of the length of stay, is a "short-term resident" of the residential facility in which they are receiving the services.
- 107. "Significant Change" means a when there is an increase or decrease in the amount or types of services that are available, or if there is an increase or decrease in the number of network providers, or if there is any other change that would impact the benefits available through this contract, or when there is a change in the scope of Drug Medi-Cal ODS services covered by this contract.
- 108. "State" means the Department of Health Care Services or DHCS.
- **109.** "State Hearing" means a hearing provided by the State to beneficiaries pursuant to Cal. Code Regs., tit. 22, § 50951 and 50953 and Cal. Code Regs., tit. 9, § 1810.216.6. State Hearings shall comply with all applicable 42 CFR requirements.
- **110.** "Subcontract" means an agreement between the Contractor and its subcontractors.

- 111. "Subcontractor" means an individual or entity that is DMC certified and has entered into an agreement with the Contractor to be a provider of covered services. It may also mean a vendor who has entered into a procurement agreement with the Contractor to provide any of the administrative functions related to fulfilling the Contractor's obligations under the terms of this Exhibit A, Attachment I.
- 112. "Substance Use Disorder Crisis Intervention Services" means contacts with a beneficiary in crisis. A crisis means an actual relapse or an unforeseen event or circumstance which presents to the beneficiary an imminent threat of relapse. SUD Crisis Intervention Services shall focus on alleviating the crisis problem, be limited to the stabilization of the beneficiary's immediate situation, and be provided in the least intensive level of care that is medically necessary to treat their condition.
- **113.** "Substance Use Disorder Diagnoses" are those set forth in the Diagnostic and Statistical Manual of Mental Disorders Fifth Edition, published by the American Psychiatric Association.
- **114.** "Substance Use Disorder Medical Director" has the same meaning as in Cal. Code Regs., tit. 22, § 51000.24.4.
- **115.** "Support Groups" means linkages to self-help and support, spiritual and faith-based support.
- **116.** "Support Plan" means a list of individuals and/or organizations that can provide support and assistance to a beneficiary to maintain sobriety.
- **117.** "Telehealth" means contact with a beneficiary via synchronous audio and video by an LPHA, Peer Support Specialist, or registered or certified counselor and may be done in the community or the home.
- **118.** "Telephone" means contact with a beneficiary via synchronous, real-time audio-only telecommunications systems.

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- **119.** "Temporary Suspension" means the provider is temporarily suspended from participating in the DMC program as authorized by W&I Code section 14043.36(a). The provider cannot bill for DMC services from the effective date of the temporary suspension.
- **120.** "Threshold Language" means a language that has been identified as the primary language, as indicated on the Medi-Cal Eligibility System (MEDS), of 3,000 beneficiaries or five percent of the beneficiary population, whichever is lower, in an identified geographic area.
- **121.** "Transportation Services" means provision of or arrangement for transportation to and from medically necessary treatment.
- **122.** "Tribal 638 Providers" means federally recognized Tribes or Tribal organizations that contract or compact with IHS to plan, conduct and administer one or more individual programs, functions, services or activities under Public Law 93-638.
 - (1) Tribal 638 providers enrolled in Medi-Cal as an Indian Health Services-Memorandum of Agreement (IHS-MOA) provider shall appear on the "List of American Indian Health Program Providers" set forth in APL 17-020, Attachment 1 in order to qualify for reimbursement as a Tribal 638 Provider under this IN.
 - (2) Tribal 638 providers enrolled in Medi-Cal as a Tribal Federally Qualified Health Center (FQHC) provider, shall do so consistent with the Tribal FQHC criteria established in the California State Plan, the Tribal FQHC section of the Medi-Cal provider manual, and APL 21-008. Tribal 638 providers enrolled in Medi-Cal as a Tribal FQHC shall appear on the "List of Tribal Federally Qualified Health Center Providers".

123. "Unit of Service" means:

(1) For care coordination, intensive outpatient treatment, outpatient services, Naltrexone treatment services, and recovery services contact with a beneficiary in 15-minute increments on a calendar day.

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- (2) For additional medication assisted treatment, physician services that includes ordering, prescribing, administering, and monitoring of all medications for substance use disorders per visit or in 15-minute increments.
- (3) For narcotic treatment program services, a calendar month of treatment services provided pursuant to this section and Cal. Code Regs., tit. 9, chapter 4, commencing with § 10000.
- (4) For clinician consultation services, consulting with addiction medicine physicians, addiction psychiatrists or clinical pharmacists in 15-minute increments.
- (5) For residential services, providing 24-hour daily service, per beneficiary, per bed rate.
- (6) For withdrawal management per beneficiary per visit/daily unit of service.
- 124. "Urban Indian Organizations (UIO)" Means a Nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in U.S. Code, tit. 25, chapter 18, § 1653(a).
- **125.** "*Urgent care*" means a condition perceived by a beneficiary as serious, but not life threatening. A condition that disrupts normal activities of daily living and requires assessment by a health care provider and if necessary, treatment within 24-72 hours.
- **126.** "Utilization" means the total actual units of service used by beneficiaries and participants.

V. Contractor Specific Requirements

In addition to the general requirements outlined in Exhibit A, Attachment I, the Contractor agrees to the following Contractor specific requirements:

A. Covered Services

The Contractor shall arrange, provide, or subcontract for the following medically necessary DMC-ODS Covered Services, as they are outlined in Article III.D of Exhibit A, Attachment I, in the Contractor's service area,

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and in compliance with all State and federal statutes and regulations, the terms of this Agreement, BHINs, and any other applicable authorities.

- Alcohol and Drug Screening, Assessment, Brief Intervention, Referral to Treatment and Early Intervention Services (ASAM Level 0.5).
- 2. Outpatient Treatment Services (ASAM Level 1.0).
- 3. Intensive Outpatient Treatment Services (ASAM Level 2.1).
- 4. Residential Treatment Services (ASAM Levels 3.1 3.5).
 - i. ASAM Levels 3.1, 3.3, and 3.5 shall be made available within the timeframes outlined in Article III, Section S.7.v.
- 5. Inpatient Treatment Services (ASAM 3.7).
- 6. Withdrawal Management (ASAM 3.2-WM).
- 7. Opioid (Narcotic) Treatment Program Services (OTP/NTP)
- 8. Recovery Services.
- 9. Medi-Cal Peer Support Services.
- 10. Care Coordination.
- 11. Clinician Consultation Services.
- 12. Medications for Addiction Treatment (also known as Medication Assisted Treatment or MAT).
- 13. Contingency Management Services.

B. Access to Services

In addition to the general access to services requirements outlined in Article III.F of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific access to services requirements:

- 1. Beneficiary Access Line (BAL)
 - i. The Contractor shall provide a toll-free 24/7 BAL to beneficiaries seeking access to covered DMC-ODS services.
 - ii. The Contractor's BAL shall provide oral and audio-logical (TTY/TDY) translations in the beneficiary's primary language.
 - iii. The Contractor shall publish the BAL information on the Contractor's web page, on all information brochures, and prevention materials in all threshold languages.
 - iv. The BAL shall provide 24/7 referrals to services for urgent conditions and medical emergencies.
- 2. The Contractor shall allow the beneficiary point of entry through the BAL. Alternatively, the Contractor shall allow beneficiaries to appear in person at any Contractor-operated or subcontracted DMC-ODS service provider.
 - i. BAL Point of Entry
 - a. The Contractor shall screen beneficiaries over the

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phone to determine whether there is sufficient information to make a referral to the appropriate level of care.

- ii. In the event the referral cannot be determined through the BAL, the Contractor's BAL shall refer and coordinate the beneficiary to a contractor-operated SUD site or subcontracted DMC-ODS service provider for a determination.
 - a. Beneficiaries screened as having an urgent need (non-emergency) will be referred for an appointment with a qualified staff within 48 hours.
 - b. The BAL shall be staffed by registered or certified alcohol or other drug counselors or LPHAs during normal business hours.
 - c. The Contractor shall provide eligible, non-urgent beneficiaries an appointment with the appropriate LOC provider within 10 business days from the initial referral.
- iii. Contractor-operated and subcontracted DMC-ODS service provider Point of Entry
 - a. The Contractor shall ensure beneficiaries:
 - May receive in person screening, assessment, and referral at designated contractor-operated or subcontracted DMC-ODS provider sites.
 - ii. May be referred by:
 - 1. The BAL
 - 2. County behavioral health site(s)
 - 3. DMC-ODS subcontracted providers
 - 4. Community Partners
 - The contractor-operated and subcontracted DMC-ODS provider site(s) shall be staffed by AOD counselors or LPHAs.
 - c. The Contractor shall ensure the ASAM Criteria level of care determination is used to obtain relevant information to identify initial treatment needs to link beneficiaries to the most appropriate LOC.
 - The beneficiary may choose to receive DMC-ODS services at the designated contacted DMC-ODS provider or choose to be referred to another appropriate DMC-ODS provider

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- offering the initial LOC determined by the ASAM screening.
- ii. In all cases, DMC-ODS provider staff shall consider geographic location, language needs and individual preference when making placement and referrals.
- iii. Upon first contact, contractor-operated and subcontracted DMC-ODS providers shall inform beneficiaries of the benefits to which they are entitled.
- iv. If the beneficiary appears in person, the contractor-operated or subcontracted DMC-ODS providers shall allow beneficiaries to receive same-day screenings, assessments, and referral, if available.
 - In the event the beneficiary's ASAM screening determines the need for a LOC not offered by the DMC-ODS provider, the contractor-operated or subcontracted DMC-ODS provider shall provide:
 - a. The beneficiary a warm hand-off to the appropriate DMC-ODS provider.
 - b. The completed ASAM tool to the appropriate DMC-ODS provider.

C. Coordination of Care

In addition to the general coordination and continuity of care requirements outlined in Article III.G of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific coordination and continuity of care requirements:

- 1. Transitions to Other Levels of Care
 - The Contractor's and/or subcontractor's care coordinators shall ensure the transition of the beneficiaries to appropriate LOC. This may include step-up or step-down in covered DMC-ODS services. Care coordinators shall provide warm hand-offs and transportation to the new LOC when medically necessary.
 - ii. The Contractor's and/or subcontractor's care coordinators shall ensure transitions to other LOCs occur no later than 10

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- business days from the time of assessment or reassessment with no interruption of current treatment services.
- iii. The initial treating provider shall be responsible for arranging care coordination services and communicating with the next provider to ensure smooth transitions between LOCs.
- iv. The Contractor shall manage a beneficiary's transition of care to a DMC-ODS provider when that beneficiary has received, and no longer requires, inpatient SUD services (ASAM level 3.7 and 4.0 services) in an acute care hospital, or another Fee for Service (FFS) facility.
- v. The Contractor shall manage a beneficiary's transition of care to a DMC-ODS provider when that beneficiary has received, and no longer requires, inpatient SUD services (ASAM level 3.7 and 4.0 services) in a subcontracted Chemical Dependency Recovery Hospital (CDRH) or Acute Freestanding Psychiatric hospital.

D. Inpatient Services

1. For Inpatient Services (ASAM Level 3.7 and ASAM 4.0) the Contractor shall coordinate care with managed care plans, who are responsible for managing and authorizing the inpatient benefit. In all instances, the Contractor shall ensure 42 CFR Part 2 compliant releases are in place to coordinate care with inpatient facilities.

E. Medi-Cal Peer Support Services

- 1. The Contractor shall provide, or arrange, and pay for Peer Support Services to Medi-Cal beneficiaries. Contractor's provision of Medi-Cal_Peer Support Services shall conform to the requirements of Supplement 3 to Attachment 3.1-A and Supplement 3 to Attachment 3.1-B of the California State Plan. Contractor's provision of Peer Support Services and implementation of a Medi-Cal Peer Support Specialist Certification Program shall further conform to the applicable requirements of BHIN 21-041 and to the requirements in any subsequent BHINs issued by the Department pursuant to Welfare & Institutions Code section § 14045.21.
- 2. Voluntary Participation and Funding.
 - The Contractor shall fund the nonfederal share of any applicable expenditures, since the Contractor has opted to implement Peer Support Services and participate in the Peer Support Specialist Certification Program set forth in Article 1.4 of Chapter 7, Part 3, of Division 9 of the Welfare and

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Institutions Code. The Contractor's local share utilized to fund Peer Support Services and the Contractor's participation in the Peer Support Specialist Certification Program shall not be considered an increase in costs mandated by the 2011 realignment legislation.

- 3. Provision of Medi-Cal Peer Support Services
 - Medi-Cal Peer Support Services may be provided face-toface, by telephone or by telehealth with the beneficiary or significant support person(s) and may be provided anywhere in the community.
 - ii. Medi-Cal Peer Support Services may be provided in conjunction with other services or levels of care described in Covered Services, including inpatient and residential services, but shall be billed separately. Based on clinical judgment, the beneficiary may not present during the delivery of Peer Support Services, but remains the focus of the service.
- 4. Medi-Cal Peer Support Specialists
 - Contractor shall ensure that Medi-Cal Peer Support Services are provided by certified Medi-Cal Peer Support Specialists as established in BHIN 21-041.
- 5. Behavioral Health Professional and Medi-Cal Peer Support Specialist Supervisors.
 - The Contractor shall ensure that Medi-Cal Peer Support Specialists provide services under the direction of a Behavioral Health Professional.
- 6. A Behavioral Health Professional must be licensed, waivered, or registered in accordance with applicable State of California licensure requirements and listed in the California Medicaid State Plan as a qualified provider of DMC-ODS.
 - Peer Support Specialists may also be supervised by Peer Support Specialist Supervisors, as established in BHIN 21-041.
- 7. Practice Guidelines.
 - Counties shall require Medi-Cal Peer Support Specialists to adhere to the practice guidelines developed by the Substance Abuse and Mental Health Services Administration, What are Peer Recovery Support Services (Center for Substance Abuse Treatment, What are Peer Recovery Support Services? HHS Publication No. (SMA) 09-4454. Rockville, MD: Substance Abuse and Mental Health

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Services Administration, U.S. Department of Health and Human Services), which may be accessed electronically through the following Internet World Wide Web connection: www.samhsa.gov/resource/ebp/what-are-peer-recovery-support-services.

- 8. Contractor shall oversee and enforce the certification standards and requirements set forth in Article 1.4 of Chapter 7, Part 3, of Division 9 of the Welfare and Institutions Code and departmental guidance, including BHIN 21-041. Contractor shall ensure that the Medi-Cal Peer Support Specialist Certification Program:
 - i. Submits to the department a Medi-Cal Peer Support Specialist Program plan in accordance with Enclosure 2 of BHIN 21-041 describing how the peer support specialist program will meet all of the federal and state requirements for the certification and oversight of peer support specialists.
 - ii. Participates in periodic reviews conducted by the department to ensure adherence to all federal and state requirements.
 - iii. Submits annual peer support specialist program reports to the department in accordance with Enclosure 5 of BHIN 21-041.Reports shall cover the fiscal year and shall be submitted by the following December 31st.
- Effective January 1, 2022, as described in SPA 21-0058, and BHIN 23-001 peer-to-peer services or services delivered by peers are no longer covered or reimbursable as a component of Recovery Services.

F. Contingency Management Services

No sooner than October 1, 2022 and upon receiving a written notification of readiness from the Department, the Contractor shall provide, or arrange for the provision of, Contingency Management Services in accordance with the requirements set forth in the Contingency Management BHIN 22-056 and any superseding BHINs in pursuant to W&I §14184.102(d).

Budget Detail and Payment Provisions

Part I - General Fiscal Provisions

<u>Section 1 - General Fiscal Provisions</u>

A. Fiscal Provisions

For services satisfactorily rendered, and upon receipt and approval of documentation as identified in Exhibit A, Attachment I, Article III, the Department of Health Care Services (DHCS) agrees to compensate the Contractor in accordance with the rates and/or allowable costs specified herein.

B. Use of State General Funds

Contractor may not use allocated Drug Medi-Cal (DMC) State General Funds to pay for any non-Drug Medi-Cal services.

C. Funding Authorization

Contractor shall bear the financial risk in providing any substance use disorder (SUD) services covered by this Agreement.

D. Availability of Funds

It is understood that, for the mutual benefit of both parties, this Intergovernmental Agreement may have been written before ascertaining the availability of congressional appropriation of funds in order to avoid program and fiscal delays that would occur if this Agreement were not executed until after that determination. In this event, DHCS may amend the amount of funding provided for in this Agreement based on the actual congressional appropriation.

E. Budget Contingency Clause

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, DHCS shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, DHCS shall solely have the option to either cancel this Agreement with no liability occurring to DHCS, or offer an amended agreement to Contractor to reflect the reduced amount.

Budget Detail and Payment Provisions

- F. In the event an amendment to this Agreement is required pursuant to the preceding paragraph, Contractor shall submit to DHCS information as identified in Exhibit E, Section 1(D). To the extent the Contractor is notified of DHCS Budget Act allocation prior to the execution of the Agreement, DHCS and the Contractor may agree to amend the agreement after the issuance of the first revised allocation.
- G. Expense Allowability/Fiscal Documentation
 - Invoices for Plan Administration and Utilization Review/Quality Assurance, received from a Contractor and accepted and/or submitted for payment by DHCS, shall not be deemed evidence of allowable agreement costs.
 - Contractor shall maintain for review and audit and supply to DHCS upon request, adequate documentation of all expenses claimed for Plan Administration and Utilization Review/Quality Assurance pursuant to this Agreement to permit a determination of expense allowability.
 - 3. If the allowability or appropriateness of an expense for Plan Administration or Utilization Review/Quality Assurance cannot be determined by DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles, and generally accepted governmental audit standards, all questionable costs may be disallowed and payment may be withheld by DHCS. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
 - 4. Costs and/or expenses for Plan Administration or Utilization Review/Quality Assurance deemed unallowable shall not be reimbursed or, if mistakenly reimbursed, those costs and/or expenses shall be subject to recovery by DHCS pursuant to Article III.KK of Exhibit A, Attachment I, California's Medicaid State Plan, California's Section 1915(b) Waiver, and California's Section 1115 5-Year Demonstration Waiver.

<u>Section 2 - General Fiscal Provisions - DMC-ODS</u>

A. Amendment or Cancellation Due to Insufficient Appropriation

This Agreement is valid and enforceable only if sufficient funds are made available to DHCS by the United States Government for the purpose of the DMC-ODS program. It is mutually agreed that if the Congress does not appropriate sufficient funds for this program, DHCS solely has the option to void this Agreement or to amend the Agreement to reflect any reduction of funds.

Exhibit BBudget Detail and Payment Provisions

B. Exemptions

Exemptions to the provisions of Item B above, of this Exhibit, may be granted by the California Department of Finance provided that the Director of DHCS certifies in writing that federal funds are available for the term of the Agreement.

C. Allowable costs

Allowable costs for Plan Administration and Utilization Review/Quality Assurance shall be determined in accordance California's Medical Assistance Program Cost Allocation Plan.

Budget Detail and Payment Provisions

Part II - Reimbursements

Section 1 - General Reimbursement

A. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

B. Amounts Payable

- 1. The amount payable under this Agreement shall not exceed the amount identified on the State of California Standard Agreement form STD 213 DHCS.
- 2. Reimbursement shall be made for substance use disorder services covered under this agreement and allowable expenses for Plan Administration and Utilization Review/Quality Assurance up to the amount annually encumbered for the state fiscal year in which substance use disorder services are performed and/or Plan Administration or Utilization Review/Quality Assurance costs are incurred.
- 3. For each fiscal year, DHCS shall settle Plan Administration and Utilization Review/Quality Assurance costs the Contractor based on each fiscal year-end DHCS 100187 and DHCS 100186.

Section 2 - DMC-ODS Services

- A. To the extent that the Contractor provides the covered services in a satisfactory manner, in accordance with the terms and conditions of this Agreement, and submits claims in accordance with the requirements of Article II, of Attachment I to Exhibit A, DHCS agrees to pay the Contractor at the rates specified for those services in the Medicaid State Plan and/or applicable waivers.
- B. Any payment for covered services rendered pursuant to Exhibit A, Attachment I shall only be made pursuant to applicable provisions of Title XIX or Title XXI of the Social Security Act, the Welfare and Institutions (W&I) Code, the Health and Safety Code (HSC), California's Medicaid State Plan, California's Section 1915(b) Waiver, and California's Section 1115 5-Year Demonstration Waiver.
- C. It is understood and agreed that failure by the Contractor or its subcontractors to comply with applicable federal and state requirements in rendering covered services, including the requirements specified in this Agreement, shall be sufficient cause for DHCS to deny payments, to recover payments, and/or terminate the Contractor or its subcontractor from DMC-ODS program participation. If DHCS or the Department of Health and Human Services (DHHS) disallows or denies payments for any claim, Contractor shall repay to DHCS the Federal Medicaid funds and/or State General

Budget Detail and Payment Provisions

Funds it received for all claims so disallowed or denied. The overpayment shall be recovered by any of the methods allowed in Division 9, Part 3, Chapter 7, Article 5.3 of the W&I Code, California's Medicaid State Plan, California's Section 1915(b) Waiver, and California's Section 1115 5-Year Demonstration Waiver.

- D. Before a denial, recoupment, or disallowance is made, DHCS shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor 60 days to submit additional information before the proposed action is taken. This requirement does not apply to the DMC-ODS Post service Post payment Utilization Reviews.
- E. DHCS shall refund to the Contractor any recovered Federal DMC-ODS overpayment that is subsequently determined to have been erroneously collected, together with interest, in accordance with Division 9, Part 3, Chapter 7, Article 5.3 of the W&I Code.
- F. Contractor shall be reimbursed by DHCS for Plan Administration and Utilization Review/Quality Assurance on the basis of its actual net reimbursable cost.
- G. Claims submitted to the Contractor by a subcontractor that is not certified or whose certification has been suspended pursuant to the W&I Code section 14107.11 and 42 CFR 455.23, shall be sufficient cause for DHCS to deny payments or to recover payments. Payments for any DMC-ODS services shall be held by the Contractor until the payment suspension is resolved.
- H. DHCS will adjust subsequent reimbursements to the Contractor for Plan Administration and Utilization Review/Quality Assurance to actual allowable costs. Actual allowable costs are defined in the DHCS Medical Assistance Program Cost Allocation Plan.
- I. Contractors must accept as payment in full the amounts paid by DHCS in accordance with this Agreement The Contractors may not demand any additional payment from DHCS, elient, or other third party payers, except as required or consistent with law.
- J. Contractor shall require all subcontractors to comply with 45 CFR 162.410(a)(1) for any subpart that would be a covered health care provider if it were a separate legal entity. For purposes of this paragraph, a covered health care provider shall have the same definition as set forth in 45 CFR 160.103. DHCS shall make payments for covered services only if Contractor is in compliance with federal regulations.

Budget Detail and Payment Provisions

Part III - Financial Audit Requirements

<u>Section 1 - General Fiscal Audit Requirements</u>

- A. In addition to the requirements identified below, the Contractor and its subcontractors are required to meet the audit requirements as delineated in Exhibit C, General Terms and Conditions, and Exhibit D(F), Special Terms and Conditions, of this Agreement.
- B. All expenditures of county realignment funds, state and federal funds furnished to the Contractor and its subcontractors pursuant to this Agreement are subject to audit by DHCS. Objectives of such audits may include, but not limited to, the following:
 - 1. To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting.
 - 2. To validate data reported by the Contractor for prospective agreement negotiations.
 - 3. To provide technical assistance in addressing current year activities and providing recommendation on internal controls, accounting procedures, financial records, and compliance with laws and regulations.
 - 4. To determine the cost of plan administration and utilization review and quality assurance activities.
 - 5. To determine that expenditures are made in accordance with applicable state and federal laws, regulations, and Agreement requirements.
 - 6. To determine the facts in relation to analysis of data, complaints, or allegations, which may be indicative of fraud, abuse, willful misrepresentation, or failure to achieve the Agreement objectives of Exhibit C and D(F).
- C. Unannounced visits may be made at the discretion of DHCS to the Contractor and/or its subcontractors.
- D. The refusal of the Contractor or its subcontractors to permit access to, and inspection of, electronic or print books and records, physical facilities, and/or refusal to permit interviews with employees, as described in this part, constitutes an express and immediate material breach of this Agreement and will be sufficient basis to terminate the Agreement for cause or default.
- E. Reports of audits conducted by DHCS shall reflect all findings, recommendations, adjustments, and corrective action as a result of its finding in any areas.

Budget Detail and Payment Provisions

Section 2 - DMC-ODS Financial Audits

- A. In addition to the audit requirements set forth in Exhibit D(F), DHCS may also conduct financial audits of DMC-ODS programs to accomplish any of, but not limited to, the following audit objectives:
 - 1. To review reported costs for validity, appropriate allocation methodology, and compliance with Medicaid laws and regulations.
 - 2. To ensure that only the cost of allowable DMC-ODS activities are included in reported costs.
 - 3. To determine the provider's usual and customary charge to the general public in accordance with CMS (The Medicare Provider Reimbursement Manual) (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov, for comparison to the DMC-ODS cost per unit.
 - 4. To review documentation of units of service and determine the final number of approved units of service.
 - 5. To determine the amount of clients' third-party revenue and Medi-Cal share of cost to offset allowable DMC-ODS reimbursement.
- B. Contractor shall be responsible for any disallowances taken by the Federal Government, DHCS, or the Bureau of State Audits as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by DHCS to repay one federal funding source with funds provided by another federal funding source, or to repay federal funds with state funds, or to repay state funds with federal funds.
- C. Contractor agrees to promptly develop and implement any corrective action plans in a manner acceptable to DHCS in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by DHCS within six months from the date of the plan.
- D. Contractor, in coordination with DHCS, shall provide follow-up on all significant findings in the audit report, including findings relating to a subcontractor, and submit the results to DHCS.

If differences cannot be resolved between DHCS and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit B, Contractor may request an appeal in accordance with the appeal process described in the Exhibit A, Attachment I and Division 9, Part 3, Chapter 7, Article 5.3 of the W&I

Budget Detail and Payment Provisions

Code. Contractor shall include a provision in its subcontracts regarding the process by which a subcontractor may file an audit appeal via the Contractor.

- E. Providers of DMC-ODS services shall, upon request, make available to DHCS their fiscal and other records to assure that such providers have adequate recordkeeping capability. These records include, but are not limited to, matters pertaining to:
 - 1. Provider ownership, organization, and operation.
 - 2. Fiscal, medical, and other recordkeeping systems.
 - 3. Federal income tax status.
 - 4. Asset acquisition, lease, sale, or other action.
 - 5. Franchise or management arrangements.
 - 6. Patient service charge schedules.
 - 7. Costs of operation.
 - 8. Cost allocation methodology.
 - 9. Amounts of income received by source and purpose.
 - 10. Flow of funds and working capital.
- G. Contractor shall retain records of utilization review activities, required in Exhibit A, Attachment I, Article III.II herein, for a minimum of ten (10) years.

Exhibit BBudget Detail and Payment Provisions

Part IV - Records

Section 1 - General Provisions

A. Maintenance of Records

Contractor shall maintain sufficient books, records, documents, and other evidence necessary for DHCS to audit Agreement performance and compliance. Contractor shall make these records available to DHCS, upon request, to evaluate the quality and quantity of services, accessibility and appropriateness of services, and to ensure fiscal accountability. Regardless of the location or ownership of such records, they shall be sufficient to determine if costs incurred by Contractor are reasonable, allowable and allocated appropriately. All records must be capable of verification by qualified auditors.

- 1. Contractor and subcontractors shall include in any contract with an audit firm a clause to permit access by DHCS to the working papers of the external independent auditor, and require that copies of the working papers shall be made for DHCS at its request.
- Contractor and subcontractors shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with DHCS. All records must be capable of verification by qualified auditors.
- 3. Accounting records and supporting documents shall be retained for ten years. When an audit by the Federal Government, DHCS, or the California State Auditor has been started, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process.
- 4. Financial records shall be kept so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed. These documents include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs. All records must be capable of verification by qualified auditors.
- 5. Contractor's subcontracts shall require that all subcontractors comply with the requirements of Exhibit A, Attachment I, Article II and Article III.
- 6. Should a subcontractor discontinue its contractual agreement with the Contractor, or cease to conduct business in its entirety, Contractor shall be responsible for retaining the subcontractor's fiscal and program records for the required retention period. DHCS Administrative Manual (SAM) contains statutory requirements governing the retention, storage, and disposal of records pertaining to state funds. Contractor shall follow SAM requirements located at http://sam.dgs.ca.gov/TOC/1600.aspx.

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Budget Detail and Payment Provisions

The Contractor shall retain all records required by W&I Code section 14124.1, 42 CFR 433.32, Exhibit A, Attachment I, California's Medicaid State Plan, California's Section 1915(b) Waiver, and California's Section 1115 5-Year Demonstration Waiver for reimbursement of services and financial audit purposes.

7. In the expenditure of funds hereunder, Contractor shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.

B. Dispute Resolution Process

- 1. In the event of a dispute under Exhibit A, Attachment I, Article III other than an audit dispute, Contractor shall provide written notice of the particulars of the dispute to DHCS before exercising any other available remedy. Written notice shall include the Agreement number. The Director (or designee) of DHCS and the County Drug or Alcohol Program Administrator (or designee) shall meet to discuss the means by which they can effect an equitable resolution to the dispute. Contractor shall receive a written response from DHCS within 60 days of the notice of dispute. The written response shall reflect the issues discussed at the meeting and state how the dispute will be resolved.
- 2. As stated in Part III, Section 2, of this Exhibit, in the event of a dispute over financial audit findings between DHCS and the Contractor, Contractor may appeal the audit in accordance with Exhibit A, Attachment I and Division 9, Part 3, Chapter 7, Article 5.3 of the W&I Code. Contractor shall include a provision in its subcontracts regarding the process by which a subcontractor may file an audit appeal via the Contractor.
- 3. Contractors that conduct financial audits of subcontractors, other than a subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify subcontractors of their appeal rights pursuant to that process. This section shall not apply to those grievances or compliances arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Part III of this Exhibit.
- To ensure that necessary corrective actions are taken, financial audit findings are either uncontested or upheld after appeal may be used by DHCS during prospective agreement negotiations.

Exhibit B, Attachment I Funding Amounts

Fiscal Year 2023-24	Funding Amount
	Original
State General Funds (7/1/23 to 6/30/24)	
Non Perinatal ODS Waiver SGF** (08)	469,800
Perinatal ODS Waiver SGF** (09)	52,200
Administration Costs & QA/UR SGF** (603)	78,300
TOTAL	600,300
Drug Medi-Cal Federal Share (7/1/23 to 6/30/24)	
Non Perinatal Federal Share (01)	7,080,000
Perinatal Federal Share (03)	768,000
Administration Costs & QA/UR (603)	1,177,200
TOTAL	9,025,200
GRAND TOTAL	9,625,500

Fiscal Year 2024-25	Funding Amount
	Original
State General Funds (7/1/24 to 6/30/25)	
Non Perinatal ODS Waiver SGF** (08)	469,800
Perinatal ODS Waiver SGF** (09)	52,200
Administration Costs & QA/UR SGF** (603)	78,300
TOTAL	600,300
Drug Medi-Cal Federal Share (7/1/24 to 6/30/25)	
Non Perinatal Federal Share (01)	7,080,000
Perinatal Federal Share (03)	768,000
Administration Costs & QA/UR (603)	1,177,200
TOTAL	9,025,200
GRAND TOTAL	9,625,500

Fiscal Year 2025-26	Funding Amount
	Original
State General Funds (7/1/25 to 6/30/26)	
Non Perinatal ODS Waiver SGF** (08)	469,800
Perinatal ODS Waiver SGF** (09)	52,200
Administration Costs & QA/UR SGF** (603)	78,300
TOTAL	600,300
Drug Medi-Cal Federal Share (7/1/25 to 6/30/26)	
Non Perinatal Federal Share (01)	7,080,000
Perinatal Federal Share (03)	768,000
Administration Costs & QA/UR (603)	1,177,200
TOTAL	9,025,200
GRAND TOTAL	9,625,500

Fiscal Year 2026-27	Funding Amount
	Original
State General Funds (7/1/26 to 6/30/27)	
Non Perinatal ODS Waiver SGF** (08)	469,800
Perinatal ODS Waiver SGF** (09)	52,200
Administration Costs & QA/UR SGF** (603)	78,300
TOTAL	600,300
Drug Medi-Cal Federal Share (7/1/26 to 6/30/27)	
Non Perinatal Federal Share (01)	7,080,000
Perinatal Federal Share (03)	768,000
Administration Costs & QA/UR (603)	1,177,200
TOTAL	9,025,200
	·
GRAND TOTAL	9,625,500

Original Four-Year Total	38,502,000

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^{**} State General Fund amounts are based on biannual DMC estimates approved by the Department of Finance. DHCS will revise the amounts through the contract amendment process for each new allocation.

Exhibit D(F) 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

- Federal Equal Employment Opportunity Requirements
- 2. Travel and Per Diem Reimbursement
- 3. Procurement Rules
- 4. Equipment Ownership / Inventory / Disposition
- 5. Subcontract Requirements
- 6. Income Restrictions
- 7. Audit and Record Retention
- 8. Site Inspection
- 9. Federal Contract Funds
- 10. Termination
- 11. Intellectual Property Rights
- 12. Air or Water Pollution Requirements
- 13. Prior Approval of Training Seminars, Workshops or Conferences
- 14. Confidentiality of Information
- 15. Documents, Publications, and Written Reports
- 16. Dispute Resolution Process
- 17. Financial and Compliance Audit Requirements
- 18. Human Subjects Use Requirements
- 19. Novation Requirements

- Debarment and Suspension Certification
- 21. Smoke-Free Workplace Certification
- 22. Drug Free Workplace Act of 1988
- 23. Covenant Against Contingent Fees
- 24. Payment Withholds
- 25. Performance Evaluation
- 26. Officials Not to Benefit
- 27. Four-Digit Date Compliance
- Prohibited Use of State Funds for Software
- 29. Use of Disabled Veteran's Business Enterprises (DVBE)
- 30. Use of Small, Minority Owned and Women's Businesses
- 31. Alien Ineligibility Certification
- Union Organizing
- 33. Contract Uniformity (Fringe Benefit Allowability)
- 34. Suspension or Stop Work Notification
- Public Communications
- Compliance with Statutes and Regulations
- 37. Lobbying Restrictions and Disclosure Certification

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.
- 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. (Government Code Section 8546.7, Public Contract Code (PCC) Sections 10115 et seq., Code of California Regulations Title 2, Section 1896.77.) The Contractor shall comply with the above and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC Section10115.10.
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of six years for all records related to Disabled Veteran Business Enterprise (DVBE) participation (Military and Veterans Code 999.55), if this Agreement involves DVBE participation, and three years for all other contract records 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.
- 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 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. 200.501audit, 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 Part 180, 2 CFR Part 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.
- 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. Drug Free Workplace Act of 1988

The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

- a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
- b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.

- c. Employees must notify their employer of any conviction of a criminal drug statue no later than five days after such conviction.
- d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy that abuse of this drug will also not be tolerated in the workplace.
- e. Contractors of federal agencies are required to certify that they will provide drugfree workplaces for their employees.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. Use of Disabled Veteran's Business Enterprises (DVBE)

(Applicable to agreements over \$10,000 in which the Contractor committed to achieve DVBE participation. Not applicable to agreements and amendments specifically exempted from DVBE requirements by DHCS.)

- a. The State Legislature has declared that a fair portion of the total purchases and contracts or subcontracts for property and services for the State be placed with disabled veteran business enterprises.
- b. All DVBE participation attachments, however labeled, completed as a condition of bidding, contracting, or amending a subject agreement, are incorporated herein and made a part of this Agreement by this reference.
- c. Contractor agrees to use the proposed DVBEs, as identified in previously submitted DVBE participation attachments. Contractor understands and agrees to comply with the requirements set forth in Military and Veterans Code Section 999 et seq. in that should award of this contract be based on part on its commitment to use the DVBE subcontractor(s) identified in its bid or offer, per Military and Veterans Code section 999.5(g), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by both DHCS and the Department of General Services (DGS) prior to the commencement of any work by the proposed subcontractor. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.

- d. Requests for DVBE subcontractor substitution must include:
 - (1) A written explanation of the reason for the DVBE substitution.
 - (2) A written description of the business enterprise that will be substituted, including its DVBE certification status.
 - (3) A written description of the work to be performed by the substituted DVBE subcontractor and an identification of the percentage share/dollar amount of the overall contract that the substituted subcontractor will perform.
- e. Failure of the Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in Military and Veterans Code § 999.9; Public Contract Code (PCC) §10115.10, or PCC §4110 (applies to public works only).
- f. Upon completion of this Contract, DHCS requires the Contractor to certify using the Prime Contractor's Certification DVBE Subcontracting Report (STD 817), al of the following: .
 - (1) The total amount the prime contractor received under the agreement;
 - (2) The name, address, Contract number and certification ID Number of the DVBE(s) that participated in the performance of this Contract;
 - (3) The amount and percentage of work the prime Contractor committed to provide to one or more DVBE(s) under the requirements of the Contract and the total payment each DVBE received from the prime Contractor;;
 - (4) That all payments under the Contract have been made to the DVBE(s); and
 - (5) The actual percentage of DVBE participation that was achieved. Upon request, the prime Contractor must provide proof of payment for the work.
- g. If for this Contract the Contractor made a commitment to achieve the DVBE participation goal, the Department will withhold \$10,000 from the final payment, or the full payment if less than \$10,000, until the Contractor complies with the certification requirements above. A Contractor that fails to comply with the certification requirement must, after written notice, be allowed to cure the defect. Notwithstanding any other law, if, after at least 15 calendar days but not more than 30 calendar days from the date of written notice, the prime Contractor refuses to comply with the certification requirements, DHCS will permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000. (Mil. & Vet. Code § 999.7.)
- A person or entity that knowingly provides false information will be subject to a civil penalty for each violation. (Mil. & Vet. Code § 999.5(d); Govt. Code § 14841.)

 i. Contractor agrees to comply with the rules, regulations, ordinances, and statutes that apply to the DVBE program as defined in Section 999 of the Military & Veterans Code, including, but not limited to, the requirements of Section 999.5(d). (PCC§ 10230.)

30. 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.

- a. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

31. 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.)

32. 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:

- 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.

33. 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, <u>cannot</u> 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.

34. 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.

35. 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."

36. 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.

37. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

- 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 the 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 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.

Name of Contractor	Printed Name of Person Signing for Contractor
Contract / Grant Number	Signature of Person Signing for Contractor
Date	Title

23-30115
Exhibit D(F)

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Del	partment	ОГП	eailli	Care	SELVIC	E S

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services

DHCS reserves the right to notifiy the contractor in writing of an alternate submission address.

Attachment 2 CERTIFICATION REGARDING LOBBYING

Approved by OMB (0348-0046)
Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Acti	on: 2. Status of Fe	deral Action:	3. Report Type:		
_ a. contract	_ a. bid/offer/a	application	_ a. initial filing		
b. grant	b. initial awa	ard	b. material change		
c. cooperative agree	ement c. post-awar	rd	For Material Change Only:		
d. loan			Year quarter		
e. loan guarantee f. loan insurance			date of last report		
4. Name and Address	of Penarting Entity:	5 If Donorting 5			
4. Name and Address	or Reporting Entity.	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:			
□Prime □	□Prime □Subawardee		Enter Name and Address of Phine.		
	Tier, if known:				
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			S		
Congressional District, If known:		Congressional District, If known:			
6. Federal Department	/Agency	7. Federal Program Name/Description:			
		CDFA Number	if applicable		
8. Federal Action Numl	her if known:	CDFA Number, if applicable: 9. Award Amount, if known:			
0. 1 0d01d17 (0d011 14d111	501, 11 Kilowii.	o. /wara/unoa	iii, ii kiiewiii		
10.a. Name and Address of Lobbying Registrant		b. Individuals P	erforming Services		
(If individual, last name, first name, MI):		(including address if different from 10a.			
		(Last name, I	First name, MI):		
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					
			ailable for public inspection. Any		
•			to a not more than \$100,000 for		
each such failure.			το α που που αποιο φ π ου, σου που		
Signature:					
Print Name:					
Title:					
Telephone Number:					
Date:					
Federal Use Only			ocal 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 itis, 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 organizationallevel 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 EAdditional Provisions

1. Amendment Process

- A. The Department of Health Care Services (DHCS) may amend the Intergovernmental Agreement (IA).
- B. Should either DHCS or the Contractor, during the term of this IA, desire any amendments to this IA, such amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed amendments are accepted or rejected. If accepted, the agreed upon amendments shall be made through DHCS' official agreement amendment process. No amendment shall be binding on either party until it is formally approved by both parties and the Department of General Services (DGS), if DGS approval is required.
- C. Any proposed amendments to the IA shall be requested by the Contractor by May 1 of the current fiscal year in order for the amendment to be effective the following fiscal year.
 - 1) The proposed amendment submitted by the Contractor shall include the proposed changes, and a statement of the reason and basis for the proposed change.
 - 2) Amendments shall be duly approved by the County Board of Supervisors or its authorized designee, and signed by a duly authorized representative.
- D. Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year may be forfeited if DHCS does not receive a fully executable IA amendment on or before June 30th of the final year of the IA.
- E. DHCS may settle costs for DMC-ODS services based on the year-end cost settlement report as the final amendment to the approved IA.

2. Cancellation / Termination

- A. This IA may be cancelled by DHCS without cause upon 90 calendar days advance written notice to the Contractor.
- B. DHCS reserves the right to cancel or terminate this IA immediately for cause. The Contractor may submit a written request to terminate this IA only if DHCS substantially fails to perform its responsibilities as provided herein.
- C. The term "for cause" shall mean that the Contractor failed to meet any terms, conditions, and/or responsibilities of this IA.

Page 1 of 4

Exhibit E

Additional Provisions

- D. IA termination or cancellation shall be effective as of the date indicated in DHCS' notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.
- F. In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this IA and incurred up to the date of termination or cancellation, including authorized non-cancelable obligations, provided such expenses do not exceed the stated maximum amounts payable.
- G. In the event of changes in law that affect provisions of this IA, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this IA are severable and in the event that changes in law render provisions of the IA void, the unaffected provisions and obligations of this IA will remain in full force and effect.
- H. The following additional provisions regarding termination apply only to Exhibit A, Attachment I, of this IA:
 - 1) In the event the federal Department of Health and Human Services (hereinafter referred to as DHHS), or DHCS determines that the Contractor does not meet the requirements for participation in DMC-ODS, the DHCS will terminate payments for services provided pursuant to Exhibit A, Attachment I, of this IA for cause.
 - 2) All obligations to provide covered services under this IA will automatically terminate on the effective date of any termination of this IA. Contractor will be responsible for providing or arranging for covered services to beneficiaries until the effective date of termination or expiration of the IA.
 - Contractor shall remain liable for processing and paying invoices and statements for covered services and utilization review requirements prior to the expiration or termination until all obligations have been met.
 - 3) In the event this IA is nullified, cancelled, or terminated, the Contractor shall refer DMC beneficiaries to providers who are enrolled to provide DMC State Plan services.
- I. In the event this IA is nullified, cancelled, or terminated, the Contractor shall deliver its entire fiscal and program records pertaining to the performance of

Exhibit EAdditional Provisions

this IA to DHCS, which will retain the records for the required retention period.

3. Avoidance of Conflicts of Interest by Contractor

- A. DHCS intends to avoid any real or apparent conflict of interest on the part of the Contractor, the subcontractor, or employees, officers and directors of the Contractor or subcontractor. Thus, DHCS reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to DHCS review and prior approval.
- B. Conflicts of interest include, but are not limited to:
 - An instance where the Contractor or subcontractor, or any employee, officer, or director of the Contractor or subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the IA would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the IA.
 - 2) An instance where the Contractor's or subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.
- C. If DHCS is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by DHCS to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by DHCS and cannot be resolved to the satisfaction of DHCS, the conflict will be grounds for terminating the Agreement. DHCS may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.
- D. Contractor acknowledges that state laws on conflict of interest, found in the Political Reform Act, Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this IA.

4. Freeze Exemptions

A. Contractor agrees that any hiring freeze adopted during the term of this IA shall not be applied to the positions funded, in whole or part, by this IA.

Exhibit E

Additional Provisions

- B. Contractor agrees not to implement any personnel policy, which may adversely affect performance or the positions funded, in whole or part, by this IA.
- C. Contractor agrees that any travel freeze or travel limitation policy adopted during the term of this IA shall not restrict travel funded, in whole or part, by this IA.
- D. Contractor agrees that any purchasing freeze or purchase limitation policy adopted during the term of this IA shall not restrict or limit purchases funded, in whole or part, by this IA.

5. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of either parties. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight-embargo, related-utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default of its subcontractor arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

6. Identification of Contractor versus Subrecipient

DHCS has classified this Agreement as a procurement contract. Therefore, the Contractor is considered a contractor, and not a subrecipient, for the purposes of U.S. Office of Management and Budget Uniform Guidance pursuant to 2 CFR 200.330.

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 5¹, is available online; updates will be available online through the Computer Security Resource Center website².
- 9.2.3. Business Associate shall employ FIPS 140-3 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 140-3 validation can be determined online through the Cryptographic Module Validation Program3. In addition, Business Associate shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.

¹ https://csrc.nist.gov/publications/detail/sp/800-53/rev-5/final

² https://csrc.nist.gov/publications/sp800

³ https://csrc.nist.gov/projects/cryptographic-module-validation-program/validated-modules/search

- **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 shall be provided via the DHCS Incident Reporting Portal upon discovery of the breach. If Business Associate is unable to provide notification via the DHCS Incident Reporting Portal, then Business Associate shall provide notice by email or telephone to DHCS.

- **18.1.2.** Business Associate shall notify DHCS within 24 hours via the online DHCS Incident Reporting Portal (or by email or telephone if Business Associate is unable to use the DHCS Incident Reporting Portal) 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 submitted to the DHCS Incident Reporting Portal will be sent to the DHCS Program Contract Manager (as applicable), the DHCS Privacy Office, and the DHCS Information Security Office. If providing notice to DHCS via email, use the DHCS contact information at Section 18.6 below (collectively, "DHCS Contacts").

Notice shall be made using the DHCS Incident Reporting Portal via the link on the DHCS Data Privacy Website⁴ online.

Notice via email shall be made using the current DHCS "<u>Privacy Incident Reporting Form</u>5" and shall include all information known at the time the incident is reported. The form is available online.

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.

⁴ https://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx

⁵ https://www.dhcs.ca.gov/formsandpubs/laws/priv/Documents/Privacy-Incident-Report-PIR.pdf

18.2. Investigation

Business Associate shall immediately investigate such security incident or breach.

18.3. Complete Report

Business Associate shall provide a complete report of the investigation to DHCS within ten (10) working days of the discovery of the security incident or breach. This complete report must include any applicable additional information not included in the initial submission. The complete report 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 additional information. Business Associate shall make reasonable efforts to provide DHCS with such information. 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 submit a complete report 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 complete report.

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 contact 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: Data Privacy Unit Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413

Email: incidents@dhcs.ca.gov

Telephone: (916) 445-4646

18.6.3. DHCS Information Security Office

Information Security Office Department of Health Care Services P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413

Email: 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

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.

22.2.1. 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. Pursuant to Public Contract Code section 2010, a person that submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a state agency with respect to any contract in the amount of \$100,000 or above shall certify, under penalty of perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

- CALIFORNIA CIVIL RIGHTS LAWS: For contracts executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
- 2. <u>EMPLOYER DISCRIMINATORY POLICIES</u>: For contracts executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

California that the foregoing is true and correct.

Proposer/Bidder Firm Name (Printed)

Federal ID Number

94-6000525

I, the official named below, certify under penalty of perjury under the laws of the State of

By (Authorized Signature)

Printed Name and Title of Person Signing

Executed in the County of

Napa

CA

Executed in the State of

CA

Date Executed

Contractor Certification Clauses

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
County of Napa		94-6000525
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Date Executed	Execute	d in the County of
	Napa	
	1	

CONTRACTOR CERTIFICATION CLAUSES

- 1. <u>STATEMENT OF COMPLIANCE</u>: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)
- 2. <u>DRUG-FREE WORKPLACE REQUIREMENTS</u>: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
- 1) receive a copy of the company's drug-free workplace policy statement; and,

2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

- 3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)
- 4. <u>CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO</u>
 <u>REQUIREMENT:</u> Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. <u>EXPATRIATE CORPORATIONS</u>: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

- a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
- b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably

required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

- 7. <u>DOMESTIC PARTNERS</u>: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.
- 8. <u>GENDER IDENTITY</u>: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. <u>CONFLICT OF INTEREST</u>: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. <u>LABOR CODE/WORKERS' COMPENSATION</u>: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and

Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

- 3. <u>AMERICANS WITH DISABILITIES ACT</u>: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
- 4. <u>CONTRACTOR NAME CHANGE</u>: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
- 6. <u>RESOLUTION</u>: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
- 7. <u>AIR OR WATER POLLUTION VIOLATION</u>: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
- 8. <u>PAYEE DATA RECORD FORM STD. 204</u>: This form must be completed by all contractors that are not another state agency or other governmental entity.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1702

TO: Board of Supervisors

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

REPORT BY: Jennifer Ivancie, Staff Services Analyst I

SUBJECT: Agreement No. 240165B with St. Helena Hospital Foundation

RECOMMENDATION

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Agreement No. 240165B with St. Helena Hospital Foundation (SHHF) for the term December 1, 2023 through May 31, 2024 for a contract maximum of \$99,600 to conduct mobile community clinics to administer COVID-19 vaccines.

EXECUTIVE SUMMARY

Approval of today's requested action allows the County to host mobile vaccination clinics to all eligible community members through SHHF. Targeted outreach clinics hosted at schools, businesses, churches, community centers, and home visits extend the outreach to the most vulnerable and at-risk in the community.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? Yes

Where is it budgeted? Health and Human Services Agency, Public Health division

Is it Mandatory or Discretionary?

Discretionary

Discretionary Justification: While there is no mandate to contract with this provider, this

agreement will community clinics and in-home services to administer COVID-19 vaccines to all eligible community

members.

Is the general fund affected?

Future fiscal impact: None, this agreement terminates on May 31, 2024. Appropriations

have been included in the approved Fiscal Year 2023-2024 budget.

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1702
Consequences if not approved:	If this agreement is not approved, the vaccines to the commercial market vaccess barriers for individuals, particular underinsured or face difficulties in a	will pose significant cost and cularly for those who are
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place	e 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

Since January 2020, SHHF has been instrumental in the outreach, education, and immunization (IZ) services for community members, particularly those who are at-risk, underinsured or face difficulties in accessing regular health care.

To minimize the impact of impending commercialization of COVID-19 vaccines, the California Department of Public Health (CDPH) has approved the use of Epidemiology and Laboratory Capacity (ELC) Enhancing Detection (ED) Expansion funding to further support COVID-19 outreach, education, and vaccination delivery efforts.

Qualified clinical staff, including nurses, paramedics, and emergency medical technicians (EMT) administer vaccines to hard-to-reach areas, high-risk groups, and rural communities that would otherwise have limited access.

SHHF's mobile unit minimizes the impact of commercialization on residents with a high rank on the Social Vulnerability Index (SVI), such as but not limited to, vaccine inequities, health disparities, housing instability, marginalized, and vulnerable community members who would otherwise not have access to vaccines.

There are no other nonprofit entities in Napa County that provide mobile COVID-19 vaccination services. SHHF is a local vendor.

NAPA COUNTY AGREEMENT NO. 240165B PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the 1st of December 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and ST. HELENA HOSPITAL FOUNDATION, a California nonprofit, whose mailing address is 10 Woodland Road, 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 mobile COVID-19 vaccination services; 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.

NAPA COUNTY, a political subdivision of	CONTRACTOR
the State of California	
ByBELIA RAMOS, Chair of the Board of Supervisors	GLEN NEWHART President and Chief Executive Officer
ATTEST: NEHA HOSKINS, Clerk of the Board	
By: DATE APPROVED BY THE BOARD: Processed by: Deputy	DAPHNE ARAUJO Board President
Maximum Amount of this Agreement: \$99,600.00	APPROVED AS TO FORM BY NAPA COUNTY COUNSEL
Term Expires: May 31, 2024	
Automatic renewal of term does not apply.	By: <u>Doug Parker, Deputy County Counsel</u> Date: October 20, 2023

TERMS AND CONDITIONS OF NAPA COUNTY AGREEMENT NO. 240165B

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, 2nd Floor, Napa, CA 94559.
- 1.4 The Program Manager for COUNTY shall be: Dr. Christine Wu, Public Health Officer, 2751 Napa Valley Corporate Drive, Building B, 2nd Floor, Napa, CA 94559.
- 1.5 The Contract Contact Person for CONTRACTOR shall be: Glen Newhart, President and CEO, 10 Woodland Road, St. Helena, CA 94574.
- 1.6 CONTRACTOR is a [] sole proprietor [] partnership [X] corporation [] public agency [] other (specify).
- 1.7 The source of funding for this Agreement shall be: COVID-19 ELC Enhancing Detection Expansion
- 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:

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.

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).
[] (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) <u>Change in Source Funding.</u> 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) <u>Amendment to Source Funding Agreement</u>. 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 <u>Statement of Economic Interests.</u> 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 May 31, 2024, 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 Budget

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

EXHIBIT A SCOPE OF WORK

St. Helena Hospital Foundation- Mobile Health Unit COVID-19 Outreach and Vaccine Administration December 1, 2023 through May 31, 2024

I. SERVICES TO BE PROVIDED

- 1. Perform targeted outreach on COVID-19 vaccination and testing education, including disseminating information to providers and offering COVID-19 test kits and vaccination to every eligible client at all mobile health visits.
- 2. Conduct vaccination clinics upvalley and administer COVID-19 vaccines with no out-of-pocket cost to all eligible attendees per Centers for Disease Control (CDC) guidelines.
- Conduct vaccination clinics throughout Napa County at employer events, community
 events, and congregate facilities and administer COVID-19 vaccines with no out-ofpocket cost to all eligible attendees per CDC guidelines.
- 4. Conduct in-home vaccination services for any individual with mobility needs in Napa County and unincorporated areas upon request or referral from Napa County's Health and Human Services Agency (HHSA) Public Health (PH) division.
- 5. Acknowledge receipts of funds from COUNTY in developed materials in accordance with CDC General Terms and Conditions for Non-research Awards (Acknowledgement of Federal Funding)¹ and submit materials to PH for review and approval.
- 6. Follow Adventist Health Saint Helena Vaccination Protocol and California Department of Public Health Requirements including:
 - a. Report required information within twenty-four (24) hours of administering a dose of COVID-19 vaccine to the California Immunization Registry (CAIR2), My Turn, or the Electronic Health Record (HER) or Electronic Medical Records (EMR) data exchange into CAIR2.
 - i. Details of required information (collectively, Vaccine Administration Data) for reporting can be found on CDC's website².
 - ii. Records must be preserved for at least three (3) years following vaccination, or longer as required by California state law.
 - b. Store and handle COVID-19 vaccines under proper conditions including always maintaining cold chain conditions and chain of custody in accordance with the manufacturer's package insert³ and guidance in CDC's Vaccine Storage and Handling Toolkit.

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¹ https://www.cdc.gov/grants/documents/general-terms-and-conditions-non-research-awards.pdf

² www.cdc.gov/vaccines/programs/iis/index.html

³ https://eziz.org/covid/

- c. Monitor vaccine storage unit temperatures using equipment and practices that comply with CDC's Vaccine Storage and Handling Toolkit⁴ and California Department of Public Health (CDPH) guidance⁵.
- d. Report updated vaccine inventory to Vaccine Finder by the second Wednesday of each month⁶.
- e. Provide an approved Vaccine Information Statement (VIS) to each vaccine recipient, the adult caregiver accompanying the recipient, or other legal representative.

II. EVALUATION AND REPORTING REQUIREMENTS

Upon execution of this agreement, CONTRACTOR agrees to perform all the Activities described in Exhibit A sections I - II. CONTRACTOR agrees that all deliverables will be completed no later than May 31, 2024.

CONTRACTOR shall complete and submit monthly quality assurance (QA) reports to the PH Project Manager- COVID-19 Grants via email to ensure compliance with California COVID-19 Vaccination Program Requirements and a final activity report documenting the data outlined in the report template per the following schedule:

Report	Reporting Period	Due Date
QA 1	12/01/2023 - 12/31/2023	January 15, 2024
QA 2	01/01/2024 - 01/31/2024	February 15, 2024
QA 3	02/01/2024 - 02/28/2024	March 15, 2024
QA 4	03/01/2024 - 03/31/2024	April 15, 2024
QA 5	04/01/2024 - 04/30/2024	May 15, 2024
QA 6	05/01/2024 - 05/31/2024	June 15, 2024
Final	12/01/2023 - 05/31/2024	June 30, 2024

COUNTY shall review monthly QA reports, the final activity report, and communicate to CONTRACTOR if it is approved or not approved within ten (10) days of receipt of report. If the QA report is not approved, COUNTY shall communicate discrepancies to CONTRACTOR. CONTRACTOR shall cure discrepancies in a timely fashion or communicate in writing reasons why such discrepancies cannot be cured.

⁴ https://www.cdc.gov/vaccines/hcp/admin/storage/toolkit/storage-handling-toolkit.pdf

⁵ https://eziz.org/assets/docs/COVID19/IMM-1314.pdf

⁶ https://eziz.org/assets/docs/COVID19/IMM-1319.pdf

QUALITY ASSURANCE REPORT

Reporting Period:	-		
Total # of individuals vaccinated	Total # of in-home referrals received	Total # of in-home referrals closed	Total # of in-home referrals pending
Required Documentat	ion		Attached?
Temperature Monitor	ing	*	
	ed hourly for the currer	rrent minimum/maximu nt reporting period ⁷ .	m 🗆
		off-site clinics to be par period. Required to turn	

⁷ https://eziz.org/assets/docs/COVID19/IMM-1315.pdf

FINAL ACTVITY REPORT

Reporting Period: 12/01/2023 – 05/31/2024			
Summary of Activities Pertaining to the Contract (Narrative):			
Type of event/effort	Brief description of event/effort	Total # of events	Total # reached/ vaccinated
Targeted Outreach			
Mobile/Pop-Up			
Community Events			
In-home			
Congregate Facilities			
Other			

EXHIBIT B COMPENSATION & BUDGET

St. Helena Hospital Foundation- Mobile Health Unit COVID-19 Outreach and Vaccine Administration December 1, 2023 through May 31, 2024

I. COMPENSATION

CONTRACTOR shall be entitled to compensation only for services described in Exhibit A.

CONTRACTOR shall submit monthly invoices and backup documentation to the PH Project Manager - COVID-19 Grants or their designee per the following schedule:

Invoice	Reporting Period	Due Date
December	12/01/2023 - 12/31/2023	January 31, 2024
January	01/01/2024 - 01/31/2024	February 28, 2024
February	02/01/2024 - 02/28/2024	March 31, 2024
March	03/01/2024 - 03/31/2024	April 30, 2024
April	04/01/2024 - 04/30/2024	May 31, 2024
May	05/01/2024 - 05/31/2024	June 30, 2024

CONTRACTOR shall invoice COUNTY for actual expenses incurred, not to exceed the contract maximum of \$99,600. Invoices shall be accompanied by documentation to support the costs for which the CONTRACTOR is seeking reimbursement including general ledger reports, payroll report, timesheets, receipts, invoices, etc.

With the written approval of the Director of COUNTY's Health and Human Services Agency or designee, CONTRACTOR may modify the maximum amount of individual budget items in its final approved budget. The dollar amount of any individual budget item may be reduced without limitation, provided the total dollar amount for all budget items shall remain unchanged, such changes in the budget shall not add a new type of service to the program description, and the administrative cost line item shall remain unchanged. Such changes shall not be effective unless and until notice of consent by Health and Human Services Agency has been given to CONTRACTOR in writing.

II. BUDGET

BUDGET		
December 1, 2023 – May 31, 2024*		
PERSONNEL	FTE	TOTAL
Program Director	0.1	\$6,084
Program Supervisor (RN)	1.0	\$22,500
Medical Assistant (MA)	2.0	\$45,000
Data and Administrative Support	0.5	\$21,246
PERSONNEL SUBTOTAL	3.6	\$94,830
OPERATING AND PROGRAM EXPENSES		TOTAL
Medical Supplies: needles, gloves, masks, etc.		\$1,000
Mobile Health van fuel, Second Vehicle		\$2,500
Educational Material: Pamphlets, Flyers		\$1,270
OPERATING AND PROGRAM SUBTOTAL		\$4,770
TOTAL		\$99,600

^{*}For costs associated with activities through May 31, 2024.

CONTRACTOR agrees that services, as described in Exhibit A, will be completed no later than May 31, 2024 with all expenses to be claimed and invoices submitted by June 30, 2024.

CONTRACTOR shall perform services and provide such documentation as required by all applicable State and Federal laws, rules, and regulations.

Other limitations affecting contract payments may include, but are not limited to:

CONTRACTOR shall provide such documentation as required by COUNTY in order to substantiate its claims for payment. COUNTY may elect to withhold payment for failure by CONTRACTOR to provide such documentation required by COUNTY.

CONTRACTOR's services and claims are subject to any audits conducted by COUNTY, the State of California, federal government, or other auditors. CONTRACTOR must maintain supporting documentation for any expenditures invoiced to COUNTY against this source of funding. Documentation for this entirety of this program should be maintained onsite for five (5) years from the date of the final invoice submitted to COUNTY. Any resulting audit exemption shall be repaid to COUNTY.

The purchasing of vaccines is not allowable.

TOTAL PAYMENTS UNDER THIS AGREEMENT SHALL NOT EXCEED \$99,600.00

EXHIBIT C

SECTION 2. GENERAL TERMS AND CONDITIONS -- VERSION 12

2.1 Term of the Agreement.

- (a) <u>Term.</u> 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) <u>Automatic Renewal</u>. 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) <u>Compensation/Maximum</u>. 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. <u>Use of Funds.</u> 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) <u>Invoices.</u> 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) <u>Legal status.</u> 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) <u>Workers' Compensation Insurance</u>. 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) <u>Liability Insurance.</u> 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) <u>General Liability</u>. 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) <u>Professional Liability/Errors and Omissions.</u> 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.
- 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) <u>Certificates of Coverage</u>. 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) <u>Deductibles/Retentions</u>. 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) <u>Inclusion in Subcontracts</u>. 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) <u>In General.</u> 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) <u>Provisions Adopted Automatically</u>. 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) <u>Waiver of Notice by CONTRACTOR</u>. 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) <u>Maintenance of Confidential Information</u>. 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) <u>Protection of Personally Identifiable Information and Protected Health Information.</u>
- (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.
- (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) <u>HHSA Contractor Security Requirements.</u> Whenever CONTRACTOR utilizes their own equipment to perform work under this Agreement, CONTRACTOR warrants that they have reviewed "HHSA Contractor Security Requirements" and can adhere to the minimum standards at all time. A copy of "HHSA 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.

2.16 No Assignments or Subcontracts.

- (a) <u>In general.</u> 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) <u>Effect of Change in Status.</u> 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) <u>Interpretation.</u> 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) <u>Venue.</u> 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:
- 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) <u>Documentation of Right to Work</u>. 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) <u>Prevailing Wages</u>. If the services to be provided relate to construction or preconstruction-related services, including but not limited to testing, surveying, and inspection, then this Agreement includes the following provisions:
- (1) <u>Affected work.</u> 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) <u>Prevailing wages rates.</u> 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.
- 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) <u>Apprentices</u>. 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) <u>Inclusion in Subcontracts.</u> 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) <u>Covenant of No Undisclosed Conflict</u>. 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.countvofnapa.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.
- (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.
- (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.

- (d) 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.
- (e) CONTRACTOR shall pay any penalty or fine assessed against COUNTY arising from CONTRACTOR's failure to comply with all applicable requirements.
- (f) 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.
- 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) <u>Federal and other applicable law.</u> 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) <u>HIPAA Business Associate Agreement.</u> 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) <u>Use or Disclosure of Protected Health Information.</u> 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) <u>Subcontractors.</u> 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.
- (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 for such services.

2.37 Licensure Status.

- (a) <u>License in Good Standing.</u> 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) <u>Expiration of License</u>. 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.countvofnapa.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.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1833

TO: Board of Supervisors

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

REPORT BY: Summer Isham, Contracts Supervisor

SUBJECT: Adoption of a Resolution to Delay Implementation of Senate Bill 43

RECOMMENDATION

Director of Health and Human Services Agency (HHSA) requests adoption of a Resolution to defer implementation of Senate Bill (SB) 43 to January 1, 2026, as allowed by law.

EXECUTIVE SUMMARY

Approval of this Resolution will allow the County the time needed to develop the infrastructure and continuum of care, programming, and resources to provide for appropriate services and treatment required by SB 43.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?

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

On October 10, 2013, SB 43 was enacted, effective on January 1, 2024, to expand the definition of "gravely disabled" under the Lanterman-Petris-Short (LPS) Act. This bill reflects significant changes to California's conservatorship laws for the first time in more than 50 years and is effective less than three months after its passage. The new definition expands the population who can be placed on an involuntary psychiatric hold or

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1833

LPS conservatorship by now allowing for the involuntary detention and conservatorship of individuals on the basis of a standalone severe substance use disorder (SUD) (i.e., without a mental health diagnosis), or a co-occurring mental health disorder and SUD disorder, in addition to the existing inability to provide for basic personal needs as a result of a mental health disorder.

A significant implementation issue for Napa County, and the overwhelming majority of counties in California, is the lack of infrastructure and thus inability to actually provide for involuntary SUD treatment, as California has no such system of care. In addition, funding for SUD treatment is limited, even under Medi-Cal. The current treatment landscape does not address involuntary treatment for individuals with SUD.

In Napa County under LPS, only law enforcement officers and individuals designated by the County may, with probable cause, detain a person and take them into custody for a grave disability psychiatric assessment based on mental illness. The County currently does not have criteria for a grave disability threshold under "severe substance use disorder," as no such assessment currently exists statewide. The County will need to develop criteria and policies, as well as protocols for designating individuals to perform severe SUD grave disability assessments. Further, in an unprecedented behavioral health workforce shortage, there will be a need to recruit and hire staff to perform severe SUD grave disability assessments. Because SB 43 also expands LPS criteria to include an assessment of whether an individual is able to provide for their personal safety and medical care as a result of chronic alcoholism, without involuntary detention, counties will need to develop policies and procedures for how these determinations will be made, along with qualified licensed health care providers. Finally, it is estimated that this change in LPS conservatorship criteria expands the population potentially subject to detention from approximately 1% to approximately 10% of the population.

In addition to the County being unable to provide for conservatorship placements for this expanded population in an ecosystem statewide that lacks sufficient SUDS treatment facilities, let alone locked facilities, there would be significant impacts on the County's local hospital systems, including Providence Queen of the Valley Medical Center and St. Helena Hospital. The hospital systems would become de facto placements creating significant bottlenecks and overflows in the emergency departments, resulting in delays for those accessing immediate life threatening emergency care. Without an alternative destination, patients identified under severe SUD holds would languish in emergency departments for unknown periods of time, as there is no viable treatment solution. This would also hold true for those identified in county jails.

Notably, these new law changes do not provide any new State funding. The State provides no funding toward Public Guardians, funding for designated individuals to conduct assessments, or the Patient's Rights Advocates needed to make determinations and conduct investigations and manage conservatorships.

Due to the above, it is in the best interest of Napa County to defer implementation of SB 43 until January 1, 2026, as set forth in the legislation. This deferral will allow time for additional financial resources to be allocated to counties in order to develop the infrastructure and continuum of care to provide the appropriate and needed service provision to the population now enveloped under SB 43. In addition, the implementation of the Community Assistance, Recovery and Empowerment (CARE) Act on December 1, 2024, will provide Napa County the opportunity to gain more data to understand the actual need, as well as develop infrastructure and programming, and continue behavioral health workforce recruitment given the historic state-wide shortage.

Board of Supervisors **Agenda Date:** 12/5/2023 **File ID #:** 23-1833

RESOLUTION NO.

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, DEFERRING IMPLEMENTATION OF THE CHANGES MADE TO WELFARE AND INSTITUTIONS CODE SECTION 5008 BY SENATE BILL 43

WHEREAS, the Lanterman-Petris-Short (LPS) Act, Welfare and Institutions Code section 5100, et seq., provides for the evaluation and treatment of a person who is gravely disabled; and

WHEREAS, gravely disabled has been defined as a condition when a person is unable to provide for his or her basic personal needs for food, clothing, or shelter as a result of a mental disorder; and

WHEREAS, on October 10, 2023, the Governor signed Senate Bill 43, effective January 1, 2024, expanding the definition of gravely disabled to include people with a severe substance use disorder (SUD); and

WHEREAS, based on estimates from SUD data, SB 43's expansion of LPS criteria to include individuals with a SUD will significantly expand the LPS conservatorship population from about 1% to around 10% of the total population; and

WHEREAS, the responsibility for administering the LPS system falls largely with counties and will expand demand for county public guardians, Patient Rights Advocates, County Counsel, public defenders, county behavioral health staff and treatment providers; and

WHEREAS, SB 43 will require development of new and novel treatment capacity that currently do not exist in California, such as locked SUD treatment facilities; and will require expanding delivery networks, housing capacity and models for locked treatment settings and models of care for involuntary SUD treatment to successfully meet the expanded conservatorship population's needs; and

WHEREAS, because there is currently no locked treatment for individuals with severe SUD and limited treatment for individuals with co-occurring medical conditions, local hospital emergency departments will be impacted by individuals who meet the expanded definition of conservatorship, but do not have facilities to treat them; and

WHEREAS, because SB 43 requires counties to assess if individuals can survive safely in community or provide for necessary medical care without involuntary detention, counties will need to develop policies and procedures and staffing for theses assessments; and

WHEREAS, Welfare and Institutions Code section 5008, subdivision (h)(4), as enacted by SB 43, provides that a county may elect to defer implementation of the changes made by SB 43 postponing implementation of the new definition of grave disability until January 1, 2026; and

WHEREAS, for the reasons stated above, the County is currently unable to implement SB 43.

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors as follows:

- 1. Pursuant to Welfare and Institutions Code section 5008, subdivision (h)(4), as enacted by SB 43, Napa County hereby elects to defer implementation of the changes made by that bill to Welfare and Institutions Code section 5008 until January 1, 2026.
- 2. This Resolution shall go into effect on January 1, 2024.

	oard of S	Supervisors, St	tate of California, at a	regular meeting of the Board the following vote:		
AYES:	SUPERVISORS					
NOES:	SUPERVISORS					
ABSTAIN:	SUPERVISORS					
ABSENT:	SUPERVISORS					
			NAPA COUNTY, a the State of Californ	political subdivision of a		
By:						
Belia Ramos, Chair of the						
			Board of Supervisor			
APPROVED AS TO FORM		APPROVED BY THE		ATTEST: NEHA HOSKINS		
Office of County Counsel		NAPA COUNTY		Clerk of the Board of Supervisors		
By: Susan B. Altman, Deputy		BOARD OF SUPERVISORS				
Deputy County Counsel		Date:		By:		
Date: November 14, 2023		Processed By:				
		Deputy Clerk o	f the Board			



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1834

TO: Board of Supervisors

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

REPORT BY: Summer Isham, Contracts Supervisor

SUBJECT: Actions regarding Funding Agreements with the California Department of

Housing and Community Development

RECOMMENDATION

Director of Health and Human Services Agency (HHSA) requests adoption of a resolution authorizing joint application for and acceptance of the County Allocation Awards under the California Department of Housing and Community Development (HCD) Transitional Housing Program (THP) Round 5 and Housing Navigation and Maintenance Program (HNMP) Round 2.

EXECUTIVE SUMMARY

Approval of the requested action will allow Director of HHSA to execute documents in connection with the THP and HNMP allocation awards for Fiscal Year 2023-2024 in order to receive funds to help youth ages 18-24 secure and maintain housing.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? Yes

Where is it budgeted? Health and Human Services, Child Welfare Services division

Is it Mandatory or Discretionary?

Discretionary

Discretionary Justification: There is no mandate to accept these funds, however, without them,

HHSA will not be able to acquire the allocated funds to provide services that help youth, currently and formerly, in foster care and

probation systems locate housing opportunities.

Is the general fund affected?

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1834	
Future fiscal impact:	Appropriations have been included 2023-2024 budget.	in the approved Fiscal Year	
Consequences if not approved:	If this action is not approved, Napa County will not receive this additional funding to provide housing services to youth in the community.		
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Plac	e 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

HCD allocates funding to counties for the support of housing navigators and housing stability to help youths ages 18-24 inclusive, also known as transitional aged youth (TAY), secure and maintain housing, with priority given to youths currently or formerly in the foster care or probation systems.

For THP, the allocation (\$99,900) is based on each county's percentage of the total statewide number of young adults 18 through 20 years of age in foster care and homeless unaccompanied young adults (ages 18 through 24). Funds shall be used to: identify and assist housing services for this population in the community, assist this population to secure and maintain housing, improve coordination of services and linkages to community resources within the Child Welfare System and the Homeless Continuum of Care, and provide engagement in outreach and targeting to serve those with the most severe needs.

For HNMP, the allocation (\$42,991) is based on each county's percentage of the total statewide number of young adults 17 through 21 years of age in the foster care and probation system. Funds shall be used to provide training to child welfare social workers and probation officers who serve nonminority dependents. The training shall address an overview of the housing resources available through the local coordinated entry system, homeless continuum of care, and county public agencies, including, but not limited to, housing navigation, permanent affordable housing, THP-Plus, and housing choice vouchers. The training shall also address how to access and receive a referral to existing housing resources, the social worker's and probation officer's role in identifying unstable housing situations for youth and referring youth to housing assistance programs.

In HHSA's Child Welfare Services division, these funds will continue work with community partners to locate, procure, and maintain housing for youth in or formerly in foster care or the probation system. This is especially important for this age group as they transition to independent living arrangements. The housing needs of youth in foster care are great and these funds provide needed support to move these youth toward the best possible outcomes.

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AUTHORIZING AN APPLICATION FOR, AND ACCEPTANCE OF, THE COUNTY ALLOCATION AWARD UNDER ROUND 5 OF THE TRANSITIONAL HOUSING PROGRAM AND ROUND 2 OF THE HOUSING NAVIGATION AND MAINTENACE PROGRAM

WHEREAS, the State of California, Department of Housing and Community Development ("Department") issued an Allocation Acceptance Form, dated October 19, 2023 under Round 5 of the Transitional Housing Program ("THP"), authorized by item 2240-102-0001 of section 2.00 of the Budget Act of 2023 (Chapter 12 of the Statutes of 2023) and Chapter 11.7 (commencing with Section 50807) of part 2 of Division 31 of the Health and Safety Code (the "THP Allocation Acceptance Form"); and

WHEREAS, the Department issued an Allocation Acceptance Form, dated October 19, 2023, under Round 2 of the Housing Navigation and Maintenance Program ("HNMP") authorized by Item 2240-103-0001 of Section 2.00 of the Budget Act of 2023 (Chapter 12 of the Statutes of 2023) and Chapter 11.8 (commencing with Section 50811) of Part 2 of Division 31 of the Health and Safety Code (the "HNMP Allocation Acceptance Form"). The THP Allocation Acceptance Form and the HNMP Allocation Acceptance Form are collectively referred to as the "Allocation Acceptance Forms"; and

WHEREAS, the Allocation Acceptance Forms relate to the availability of the funds under the THP and HNMP Programs; and

WHEREAS, Napa County ("County") may be listed as an eligible applicant in Allocation Acceptance Form, dated October 19, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors as follows:

SECTION 1. That County is hereby authorized and directed to apply for and accept County's allocation award, as detailed in the THP Allocation Acceptance Form, in the amount not to exceed \$99,900, as detailed and authorized in the THP Allocation Acceptance Form at the time this resolution is executed and authorized.

SECTION 2. That County hereby affirms that if THP funds remain available for allocation after the deadline for submitting a signed Allocation Acceptance Form, and if the County is eligible for an additional allocation from the remaining funds for the THP program, the County is hereby authorized and directed to accept this additional allocation of funds ("Additional THP Allocation") up to the amount authorized by Department but not to exceed \$199,800.

SECTION 3. That County is hereby authorized and directed to apply for and accept County's allocation award in the amount not to exceed \$42,991, as detailed in the HNMP Allocation Acceptance Form at the time this resolution is executed and authorized.

SECTION 4. That County hereby affirms that if HNMP funds remain available for allocation after the deadline for submitting a signed Allocation Acceptance Form, and if the County is

eligible for an additional allocation from the remaining funds for the HNMP program, the County is hereby authorized and directed to accept this additional allocation of funds ("Additional HNMP Allocation") up to the amount authorized by Department but not to exceed \$85,982.

SECTION 5. That Director of Health and Human Services Agency, or his or her designee, is hereby authorized and directed to act on behalf of County in connection with the THP Allocation Award and any Additional THP Allocation, and to enter into, execute, and deliver any and all documents required or deemed necessary or appropriate to participate in the THP Program, including but not limited to a Standard Agreement, be awarded the THP Allocation Award, and any additional THP Allocation, and any amendments to such documents (collectively, the "THP Allocation Award Documents").

SECTION 6. That Director of Health and Human Services Agency, or his or her designee, is hereby authorized and directed to act on behalf of County in connection with the HNMP Allocation Award and any Additional HNMP Allocation, and to enter into, execute, and deliver any and all documents required or deemed necessary or appropriate to participate in the HNMP Program, including but not limited to a Standard Agreement, be awarded the HNMP Allocation Award, and any additional HNMP Allocation, and any amendments to such documents (collectively, the "HNMP Allocation Award Documents").

SECTION 7. That County shall be subject to the terms and conditions that are specified in the THP and HNMP Allocation Award Documents, and that County will use the THP and HNMP Allocation Award funds, and any additional THP and HNMP Allocation funds, in accordance with the Allocation Acceptance Form, the THP and HNMP Allocation Award Documents, and any subsequent amendments or amendment thereto, as well as any and all other THP and HNMP requirements, or other applicable laws.

SECTION 8. That County has the discretion to accept any or all of the THP and HNMP program funds that it has been awarded.

[remainder of page intentionally left blank]

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 _____, ____, 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** ATTEST: NEHA HOSKINS APPROVED BY THE APPROVED AS TO FORM Office of County Counsel NAPA COUNTY Clerk of the Board of Supervisors **BOARD OF SUPERVISORS** By: <u>Doug Parker (via e-sign)</u> Deputy County Counsel Date: By:_____ Processed By: Date: November 13, 2023

Deputy Clerk of the Board



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1837

TO: Board of Supervisors

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

REPORT BY: Summer Isham, Contracts Supervisor

SUBJECT: Intergovernmental Transfer of Public Funds: Voluntary Rate Range Program

RECOMMENDATION

Director of Health and Human Services Agency (HHSA) requests approval of and authorization for the Chair to sign Agreement No. 240215B with the California Department of Health Care Services (DHCS) for the Intergovernmental Agreement Regarding Transfer of Public Funds for the term January 1, 2022, through June 30, 2025, for the transfer of approximately \$2,000,000 to fund the non-federal share of Medi-Cal Managed Care actuarially sound capitation rates. This amount includes the 20% assessment fee retained by DHCS.

EXECUTIVE SUMMARY

The purpose of today's requested action is to obtain Board approval to permit the transfer of approximately \$2,000,000 to the California Department of Health Care Services (DHCS) for the term January 1, 2022, through June 30, 2025, to be used as local matching funds to obtain an equivalent amount of federal Medicaid revenue.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? Yes

Where is it budgeted? Health and Human Services Agency, Behavioral Health division

Is it Mandatory or Discretionary?

Discretionary

Discretionary Justification: This action is discretionary in that there is no mandate to

participate in the Intergovernmental Transfer (IGT) process nor to accept additional federal Medicaid funds made available through

the IGT process. However, the IGT process will provide

approximately \$2,000,000 in funding for health care programs and

activities benefitting Napa County residents.

Is the general fund affected? No

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1837	
Future fiscal impact:	This agreement terminates on June 30, 2025. However, the transfer is expected to take place in the current fiscal year and has been		
	included in the approved budget.		
Consequences if not approved:	If this agreement is not approved, HHSA will lose the opportunity		
	to obtain additional Medicaid funding.		
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 Intergovernmental Transfer (IGT) process is a funding mechanism under Section 1903(w)(a) of the Social Security Act, which States and local governments utilize, under certain circumstances, to obtain additional federal matching dollars for Medicaid programs. These funds become available when the State claims federal funds for use in the California Medi-Cal system at a level that is less than the maximum allowable federal funding level. The difference between the maximum allowable federal funding level and the actual amount drawn down by the State is referred to as "headroom." This "headroom" of unused federal reimbursement is available to be drawn down by counties and other public entities through an IGT.

Partnership HealthPlan of California (PHC) is the county organized health system that provides managed health care services for low-income individuals and families eligible for Medi-Cal in Napa and several surrounding counties and is the fiscal intermediary for the IGT process to increase federal Medicaid funding available to Napa County.

The Health and Human Services Agency has participated in the IGT process since Fiscal Year 2013-2014 and the funding has made possible programs that improve access to services and address service gaps or shortfalls by enhancing, expanding or otherwise supporting health-related services that are not already funded under the Medi-Cal system for Napa County residents.

INTERGOVERNMENTAL AGREEMENT REGARDING TRANSFER OF PUBLIC FUNDS

This Agreement is entered into between the CALIFORNIA DEPARTMENT OF
HEALTH CARE SERVICES ("DHCS") and NAPA COUNTY HEALTH AND HUMAN
SERVICES ("GOVERNMENTAL FUNDING ENTITY") with respect to the matters set forth below.

The parties agree as follows:

AGREEMENT

1. Transfer of Public Funds

- of funds to DHCS pursuant to sections 14164 and 14301.4 of the Welfare and Institutions Code. The amount transferred shall be based on the sum of the applicable rate category per member per month ("PMPM") contribution increments multiplied by member months, as reflected in Exhibit 1. The GOVERNMENTAL FUNDING ENTITY agrees to initially transfer amounts that are calculated using the Estimated Member Months in Exhibit 1, which will be reconciled to actual enrollment for the service period of January 1, 2022, through December 31, 2022 in accordance with Sub-Section 1.3 of this Agreement. The funds transferred shall be used as described in Sub-Section 2.2 of this Agreement. The funds shall be transferred in accordance with the terms and conditions, including schedule and amount, established by DHCS.
- 1.2 The GOVERNMENTAL FUNDING ENTITY shall certify that the funds transferred qualify for Federal Financial Participation pursuant to 42 C.F.R. part 433, subpart B, and are not derived from impermissible sources such as recycled Medicaid payments, Federal

money excluded from use as State match, impermissible taxes, and non-bona fide provider-related donations. Impermissible sources do not include patient care or other revenue received from programs such as Medicare or Medicaid to the extent that the program revenue is not obligated to the State as the source of funding.

actual enrollment in HEALTH PLAN(S) for the service period of January 1, 2022, through December 31, 2022 using actual enrollment figures taken from DHCS records. Enrollment reconciliation will occur on an ongoing basis as updated enrollment figures become available. Actual enrollment figures will be considered final two years after December 31, 2022. If reconciliation results in an increase to the total amount necessary to fund the nonfederal share of the payments described in Sub-Section 2.2, the GOVERNMENTAL FUNDING ENTITY agrees to transfer any additional funds necessary to cover the difference. If reconciliation results in a decrease to the total amount necessary to fund the nonfederal share of the payments described in Sub-Section 2.2, DHCS agrees to return the unexpended funds to the GOVERNMENTAL FUNDING ENTITY mutually agree, amounts due to or owed by the GOVERNMENTAL FUNDING ENTITY may be offset against future transfers.

2. Acceptance and Use of Transferred Funds

2.1 DHCS shall exercise its authority under section 14164 of the Welfare and Institutions Code to accept funds transferred by the GOVERNMENTAL FUNDING ENTITY pursuant to this Agreement as Intergovernmental Transfer (IGTs), to use for the purpose set forth in Sub-Section 2.2.

- 2.2 The funds transferred by the GOVERNMENTAL FUNDING ENTITY pursuant to Section 1 and Exhibit 1 of this Agreement shall be used to fund the non-federal share of Medi-Cal Managed Care actuarially sound capitation rates described in section 14301.4(b)(4) of the Welfare and Institutions Code as reflected in the contribution PMPM and rate categories reflected in Exhibit 1. The funds transferred shall be paid, together with the related Federal Financial Participation, by DHCS to HEALTH PLAN(S) as part of HEALTH PLAN(S)' capitation rates for the service period of January 1, 2022, through December 31, 2022, in accordance with section 14301.4 of the Welfare and Institutions Code.
- 2.3 DHCS shall seek Federal Financial Participation for the capitation rates specified in Sub-Section 2.2 to the full extent permitted by federal law.
- 2.4 The parties acknowledge that DHCS will obtain any necessary approvals from the Centers for Medicare and Medicaid Services.
- 2.5 DHCS shall not direct HEALTH PLAN(S)' expenditure of the payments received pursuant to Sub-Section 2.2.

3. Assessment Fee

- 3.1 DHCS shall exercise its authority under section 14301.4 of the Welfare and Institutions Code to assess a 20 percent fee related to the amounts transferred pursuant to Section 1 of this Agreement, except as provided in Sub-Section 3.2. GOVERNMENTAL FUNDING ENTITY agrees to pay the full amount of that assessment in addition to the funds transferred pursuant to Section 1 of this Agreement.
- 3.2 The 20-percent assessment fee shall not be applied to any portion of funds transferred pursuant to Section 1 that are exempt in accordance with sections 14301.4(d) or 14301.5(b)(4) of the Welfare and Institutions Code. DHCS shall have sole discretion to

determine the amount of the funds transferred pursuant to Section 1 that will not be subject to a 20 percent fee. DHCS has determined that \$0.00 of the transfer amounts, as shown in the table below, will not be assessed a 20 percent fee, subject to Sub-Section 3.3.

3.3 The 20-percent assessment fee pursuant to this Agreement is non-refundable and shall be wired to DHCS simultaneously with the transfer amounts made under Section 1 of this Agreement. If at the time of the reconciliation performed pursuant to Sub-Section 1.3 of this Agreement, there is a change in the amount transferred that is subject to the 20-percent assessment in accordance with Sub-Section 3.1, then a proportional adjustment to the assessment fee will be made.

4. Amendments

- 4.1 No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.
- 4.2 The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in Section 2 of this Agreement.
- 5. <u>Notices</u>. Any and all notices required, permitted, or desired to be given hereunder by one party to the other shall either be sent via secure email or submitted in writing to the other party personally or by United States First Class, Certified or Registered mail with postage prepaid, addressed to the other party at the address as set forth below:

To the GOVERNMENTAL FUNDING ENTITY:

Kimberly Danner, CFO 2751 Napa Valley Corporate Drive Napa, CA 94559 Kimberly.Danner@countyofnapa.org With copies to:

Insert CC Info as identified by Funding Entity

To DHCS:

Vivian Beeck
California Department of Health Care Services
Capitated Rates Development Division
1501 Capitol Ave., MS 4413
Sacramento, CA 95814
Vivian.Beeck@dhcs.ca.gov

Any required signature(s) on any documents must be in compliance with California Government Code section 16.5 and any other applicable state or federal regulations.

6. Other Provisions

- 6.1 This Agreement contains the entire Agreement between the parties with respect to the Medi-Cal payments described in Sub-Section 2.2 of this Agreement that are funded by the GOVERNMENTAL FUNDING ENTITY, and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations or other agreements between the GOVERNMENTAL FUNDING ENTITY and DHCS relating to the subject matter of this Agreement. This Agreement is not, however, intended to be the sole agreement between the parties on matters relating to the funding and administration of the Medi-Cal program. This Agreement shall not modify the terms of any other agreement, existing or entered into in the future, between the parties.
- 6.2 The non-enforcement or other waiver of any provision of this Agreement shall not be construed as a continuing waiver or as a waiver of any other provision of this Agreement.

- 6.3 Sections 2 and 3 of this Agreement shall survive the expiration or termination of this Agreement.
- 6.4 Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals. Accordingly, there shall be no third party beneficiary of this Agreement.
 - 6.5 Time is of the essence in this Agreement.
- 6.6 Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.
- 7. <u>State Authority.</u> Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the DHCS' powers, authorities, and duties under Federal and State law and regulations.
 - 8. <u>Approval.</u> This Agreement is of no force and effect until signed by the parties.
- 9. <u>Term.</u> This Agreement shall be effective as of January 1, 2022, and shall expire as of June 30, 2025 unless terminated earlier by mutual agreement of the parties.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

NAPA COUNTY HEALTH AND HUMAN SERVICES:

Ву:		Date:
	BELIA RAMOS, Chair of the Napa County Board of Sur	pervisors

THE STATE OF CALIFORNIA, DEPARTM	MENT OF HEALTH CARE SERVICES:
Ву:	Date:
David Bishop, Acting Division Chief,	Capitated Rates Development Division
APPROVED AS TO FORM	
Office of County Counsel	
By: /S/ RACHEL ROSS	
Deputy County Counsel	
Date: 11/15/2023	

Exhibit 1

Health Plan	Funding Entity	County	Service Period	Participation %
Partnership Health Plan of California	Napa County Health and Human Services	Regional	1/2022 - 12/2022	3.03%
Category of Aid	SIS/UIS	Contribution PMPM	Estimated Member Months*	Estimated Contribution (Non- Federal Share)
Child	SIS	\$ 0.09	2,574,310	\$ 231,688
Child	UIS	\$ 0.15	75,498	\$ 11,325
Adult	SIS	\$ 0.27	1,136,355	\$ 306,816
Adult	UIS	\$ 0.64	124,071	\$ 79,405
ACA Optional Expansion	SIS	\$ 0.06	2,310,919	\$ 138,655
ACA Optional Expansion	UIS	\$ 0.51	160,059	\$ 81,630
SPD	SIS	\$ 0.82	446,077	\$ 365,783
SPD	UIS	\$ 1.73	21,750	\$ 37,628
SPD/Full-Dual	SIS	\$ 0.18	866,986	\$ 156,057
SPD/Full-Dual	UIS	\$ 0.49	1,419	\$ 695
LTC (non-dual)	SIS	\$ 3.46	1,167	\$ 4,038
LTC (non-dual)	UIS	\$ 7.14	384	\$ 2,742
LTC/Full-Dual	SIS	\$ 2.56	31,135	\$ 79,706
LTC/Full-Dual	UIS	\$ 5.82	31	\$ 180
Whole Child Model	SIS	\$ 1.40	98,296	\$ 137,614
Whole Child Model	UIS	\$ 2.52	2,002	\$ 5,045
Est. FE Total		`	7,850,459	\$ 1,639,007

^{*} Note that Estimated Member Months are subject to variation, and the actual total Contribution (Non-Federal Share) may differ from the amount listed here.

^{*} FMAP is a weighted blend of multiple FMAPs.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1845

TO: Board of Supervisors

FROM: Ryan J. Alsop, Chief Executive Officer

REPORT BY: Jennifer Palmer, Director of Housing & Homeless Services

SUBJECT: Amendment 1 to Agreement No. 200400B with The Ferguson Group

RECOMMENDATION

Director of Housing & Homeless Services requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 200400B with The Ferguson Group for grant writing assistance, extending the contract for an additional year through June 30, 2024 with up to three yearly auto-renewals.

EXECUTIVE SUMMARY

On March 24, 2020 the County entered into an agreement with The Ferguson Group to provide grant writing assistance for Continuum of Care funding competition grants to the Department of Housing & Homeless Services. The purpose of this amendment is to extend the contract for an additional year, with an auto-renewal for up to three additional years. There are no other changes to the scope or budget of the contract. The Ferguson Group is not a local vendor and was selected through a competitive Request for Proposal (RFP) process.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? Yes

Where is it budgeted? Department of Housing & Homeless Services

Is it Mandatory or Discretionary?

Discretionary

Discretionary Justification: This action is discretionary in that there is no mandate to contract

with The Ferguson Group for grant writing or technical assistance.

Is the general fund affected? No

Future fiscal impact: Funding for this service will be budgeted each fiscal year for the

term of the agreement.

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1845
Consequences if not approved:	If not approved, Napa County DHI grant writing assistance essential to County for Federal and State funds Continuum of Care annual compet	o competitively position Napa s available through the
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Pla	ce to Live, Work, and Visit
Additional Information		

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 2020, Napa County Housing & Homeless Services (DHHS) selected the Ferguson Group through a competitive Request for Proposal (RFP) process to provide grant writing assistance for State and Federal funding available through the Continuum of Care annual funding competition. The Ferguson Group assists DHHS with applying for approximately \$750,000 annually in state and federal grant funding annually. These grants include the annual U.S. Dept. of Housing & Urban Development's (HUD) Continuum of Care grant competition process, and the State's Housing & Community Development's (HCD) Emergency Solutions Grant (ESG) competition process. Both funding competitions provide critical administrative infrastructure, service delivery and rental assistance funding to the community.

The initial contract was approved under the purchasing authority of the County Executive Office, however per the County's Purchasing Policy, this item must be reviewed and approved by the Board of Supervisors because it is being renewed for an additional three (3) years.

Approval of today's actions renews the contract with The Ferguson Group for an additional year, with up to three additional auto-renewals. There are no other changes to the contract or budget.

NAPA COUNTY AGREEMENT NO. 200400B AMENDMENT NO. 1

THIS	AMENDMENT NO	D. 1 TO NAPA COUNTY AGREEMENT NO. 200400B is effective
this	day of	, 2023 by and between NAPA COUNTY, hereinafter
referre	ed to as "COUNTY,"	and THE FERGUSON GROUP, a limited liability corporation,
whose	business address is	1901 Pennsylvania Ave, NW, Suite 700, Washington, D.C. 2000,
herein	after referred to as "	CONTRACTOR."

RECITALS

WHEREAS, on March 24, 2020, COUNTY and CONTRACTOR entered into Napa County Agreement No. 200400C (hereinafter referred to as the "Agreement") for CONTRACTOR to provide grant writing and technical services to Napa County Housing and Homeless Services; and

WHEREAS, COUNTY needs further services to provide grant writing and technical services to Napa County Housing & Homeless Services.

NOW, THEREFORE, COUNTY and CONTRACTOR hereby agree to amend the Agreement in the manner set forth below.

TERMS

1. Paragraph 1 of the Agreement is amended to read in full as follows:

Term of the Agreement. The term of this Agreement shall commence on July 1, 2023 and shall expire on June 30, 2024, unless terminated earlier in accordance with Paragraph 9 (Termination for Cause), 10 (Other Termination) or 23(a) (Covenant 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 of 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 in effect, not to exceed three (3) 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 expirations 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. Except as provided in Paragraph 1 above, the remaining terms and conditions of the Agreement shall remain in full force and effect.

[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to Napa County Agreement No. 200400B as of the date first above written.

The	Ferguson Group, LLC
Ву	W. Maga Cours
	W. ROCER GWL I, CEO
Ву	all the
	MARK A. LIMBAUCH, PRESIDENT

NAPA COUNTY, a political subdivision of the State of California

By_______BELIA A. RAMOS, Chair of the Napa County Board of Supervisors

APPROVED AS TO FORM	APPROVED BY THE NAPA	ATTEST: NEHA HOSKINS
Office of County Counsel	COUNTY BOARD OF SUPERVISORS	Clerk of the Board of Supervisors
By: S. Darbinian		
Deputy County Counsel	Date:	By:
Detail October 22, 2022	Processed By:	
Date: October 23, 2023		
	Deputy Clerk of the Board	



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1942

Board of Supervisors TO:

FROM: Ryan J. Alsop, County Executive Officer

REPORT BY: Jennifer Palmer, Director of Housing & Homeless Services

SUBJECT: Reservation of Affordable Housing Funds for 41-unit Permanent Supportive

Housing Project

RECOMMENDATION

Director of Housing & Homeless Services requests the Board of Supervisors adopt a Resolution reserving \$1,550,000 from the Affordable Housing Fund to assist Jamboree Housing Corporation with the development of 41 permanent supportive housing units.

EXECUTIVE SUMMARY

Jamboree Housing Corporation (JHC), LLC, has secured site control of one (1) parcel located at 515 Silverado Trail in the City of Napa, comprised of approximately 1.05 acres for the purposes of building forty (40) permanent supportive housing units (PSH) and one (1) manager's unit. The initial financing plan for the project assumes the majority of funding will come from both 4% Tax Credits and California Department of Housing and Community Development ("HCD") Super NOFA. The City of Napa approved a loan to JHC in January 2023 in the amount of \$2,000,000. JHC has submitted a request to the County for \$1,550,000 in permanent construction financing prior to submission of the HCD Super NOFA application due in April 2024.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted?

Where is it budgeted? If approved, it will be budgeted in Fund 2080.

Is it Mandatory or Discretionary? Discretionary

Discretionary Justification: There is no mandate to reserve Affordable Housing funds for an

specific project

Is the general fund affected? No

Future fiscal impact: If approved, staff will return with a budget adjustment at the time

when all project sources are confirmed and loans need to close.

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1942
Consequences if not approved:	JHC may not be competitive in the HCD Super NOFA in April 2024.	
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

Napa County receives funds under its Affordable Housing and Incentives Ordinance (County Code Chapter 18.107) and implements resolutions to further the development of affordable housing throughout Napa County.

Jamboree Housing Corporation, LLC, a California limited liability company, has secured site control of one (1) parcel of real property in Napa County, located at 515 Silverado Trail, comprising approximately 1.05 acres and designated by Assessor's Parcel Number 046-050-001, through a Purchase and Sale Agreement (PSA) with the property owner, as of January 6, 2023. The proposed development consists of three one-story buildings with forty (40) one-bedroom units measuring approximately 550 square feet and one (1) three-bedroom manager's unit. The development will provide permanent supportive housing and services to very-low and extremely-low-income individuals exiting homelessness, with units set aside for placement via the Coordinated Entry System (CES) for households earning between 20% and 50% Area Median Income.

The proposed site plan has a landscaped setback with an entry plaza to accommodate streetside plantings of trees, in alignment with the rest of the South Silverado Trail Subarea. Landscaping within the entry plaza will create a scenic character to blend in with and enhance the surrounding wooded area along Silverado Trail. The property will be surface parked with parking located in the rear half of the site.

Affordable housing projects rely on early local funding commitments to show loan support for developments and successfully compete when applying for state and federal affordable housing funding. In addition, large projects incur significant expenses related to feasibility and pre-development design work over the course of project inception through to the start of construction represent a significant cost for developers to carry, making early funding commitments vital to long-term project success.

The financing plan for the JHC project assumes a majority of permanent funding will come from both 4% Tax Credits and the California Department of Housing and Community Development ("HCD") Super NOFA. JHC applied to the City of Napa in January 2023 requesting \$2,000,000 in permanent construction financing for the project. The City approved the requested loan. JHC is now requesting an additional \$1,550,000 funding commitment from the Napa County in advance of the HCD Super NOFA application in April 2024 to demonstrate strong local project support.

The anticipated permanent funding sources for the project are (subject to change):

Permanent Loan: \$0 (\$0 per unit)

Tax Credit Investor Proceeds: \$21,997,800 (\$536,532 per unit)

Board of Supervisors A	genda Date: 12/5/2023	File ID #: 23-1942
Providence Health:	\$ 1,000,000 (\$ 24,390 per unit)	
HCD Multifamily Housing Program (MHP)	\$ 9,280,000 (\$226,341 per unit)	
City of Napa:	\$ 2,000,000 (\$ 48,780 per unit)	
County of Napa:	\$ 1,550,000 (\$ 37,805 per unit)	
Total Permanent Sources:	\$35,827,800 (\$873,849 per unit)	

The Director of Housing & Homeless Services requests the Board of Supervisors adopt a Resolution reserving \$1,550,000 from the Affordable Housing Fund to assist Jamboree Housing Corporation with the development of 40 permanent supportive housing units and one manager's unit, pending submittal of a complete application confirming all necessary permanent sources withing to years of the date of this action.

RESOLUTION NO. 2023-

RESOLUTION OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, RESERVING \$1,550,000 FROM THE NAPA COUNTY AFFORDABLE HOUSING FUND TO JAMBOREE HOUSING CORPORATION TO ASSIST IN THE DEVELOPMENT OF 40 PERMANENT SUPPORTIVE HOUSING UNITS FOR THE PROJECT LOCATED AT 515 SILVERADO TRAIL IN THE CITY OF NAPA.

WHEREAS, Napa County receives funds under its Affordable Housing and Incentives Ordinance (County Code Chapter 18.107) and implementing resolutions to further the development of affordable housing throughout Napa County; and

WHEREAS, Jamboree Housing Corporation, LLC, a California limited liability company, has secured site control of one (1) parcel of real property in Napa County, located at 515 Silverado Trail, comprising approximately 1.05 acres and designated by Assessor's Parcel Number 046-050-001 through a Purchase and Sale Agreement (PSA) with the property owner as of January 6, 2023.

WHEREAS, Jamboree Housing Corporation submitted an application to the City of Napa in January 2023 requesting Two Million Dollars (\$2,000,000) in permanent construction financing for the development of 40 permanent supportive housing (PSH) units and 1 manager's unit; and

WHEREAS, the City of Napa approved the requested loan; and

WHEREAS, the 41-unit development will provide permanent supportive housing and service opportunities to very-low income and extremely low-income individuals exiting homelessness, with 1-bedroom units for households earning between 20% and 50% Area Median Income and one 3-bedroom manager's unit; and

WHEREAS, all 40 of the PSH units will be set-aside for placement via the Coordinated Entry System (CES); and

WHEREAS, the initial financing plan for the Project assumes the majority of funding will come from both 4% Tax Credits and California Department of Housing and Community Development ("HCD") Super NOFA; and

WHEREAS, Jamboree Housing Corporation submitted a request to the County for One Million Five Hundred Fifty Dollars (\$1,550,000) in permanent construction financing for the development of 40 permanent supportive housing units and one manager's unit prior to submission of the HCD Super NOFA application due in April 2024.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Napa County hereby reserves One Million Five Hundred Fifty Thousand Dollars (\$1,550,000) from its Affordable Housing Fund, pending submittal of a complete application confirming all necessary permanent sources of funds within two years of the date of this Resolution, and pending Board determination of loan terms, to assist with the development of the permanent supportive housing units.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED

by the Board of Supervisors of Napa County, State of California, at a regular meeting of the Board held on the ____ of _____, 2023, by the following vote: **SUPERVISORS** AYES: NOES: **SUPERVISORS NONE** ABSTAIN: **SUPERVISORS NONE** ABSENT: **SUPERVISORS NONE** NAPA COUNTY, a political subdivision of the State of California By: BELIA RAMOS, Chair of the

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: S. Darbinian Deputy County Counsel	Date: Processed By:	By:
Date: 11/19/23	Deputy Clerk of the Board	

Board of Supervisors



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1934

TO: Board of Supervisors

FROM: Christine Briceño, Director of Human Resources

REPORT BY: Joy Cadiz, Staff Services Manager

SUBJECT: Adoption of a Resolution Authorizing a Matching Employer Contribution for

the Benefit of 401(a) Retirement Savings Plan Participants for the 2024 Calendar Year

RECOMMENDATION

Director of Human Resources requests adoption of a Resolution establishing a \$1,600 Matching Employer Contribution for Management, Confidential, and Non-Classified Officers and Non-Classified employees who are participants in Napa County's 401(a) Retirement Savings Plan during calendar year 2024, a \$600 Matching Employer Contribution for SEIU employees who are participants in Napa County's 401(a) Retirement Savings Plan during calendar year 2024, and a \$900 Matching Employer Contribution for NCPPA employees who are participants in Napa County's 401(a) Retirement Savings Plan during calendar year 2024.

EXECUTIVE SUMMARY

In 2002, the County established the 401(a) Retirement Savings Plan ("Plan") for the benefit of Management, Confidential, Non-Classified Officers, and Non-Classified employees. The Plan provides that the County may offer an Employer Contribution involving a Match ("Match") to be allocated to the 401(a) pre-tax sub-account of each eligible officer or employee. The Board of Supervisors must annually establish by resolution the maximum amount of the Match and the conditions under which the Match will be made. The Match Recommended by the County Executive Officer to me made available in 2024 for all for Management, Confidential, Non-Classified Officers, and Non-Classified employees who are participants in Napa County's 401(a) Retirement Savings Plan during calendar year 2024 is \$1,600 per participant

In 2022, in its collective bargaining agreement with Service Employee International Union, Local 1021 (SEIU), the County agreed to provide a deferred compensation Match during the calendar year 2023 for the benefit of County employees who are SEIU members and participate in the Plan. The Match recommended by the County Executive Officer to be made available in 2024 for SEIU members who are participants in the Plan is \$600 per participant.

File ID #: 23-1934 **Board of Supervisors Agenda Date:** 12/5/2023

In 2022, in its total tentative agreement with the Napa County Probation Professionals Association (NCPPA), the County agreed to provide a deferred compensation Match during the calendar year 2024 for the benefit of County employees who are NCPPA members and participate in the Plan. The Match recommended by the County Executive Officer to be made available in 2024 for NCPPA member who are participants in the Plan is \$900 per participant.

FISCAL & STRATEGIC PLAN IMPACT

Yes Is there a Fiscal Impact? Is it currently budgeted? Yes

Where is it budgeted? Funds to cover the Match are included in the Fiscal Year 2023-

> 2024 Approved Budget for each County department. Match costs projected to be incurred in Fiscal Year 2024-2025 will be included

in each department's budget request.

Is it Mandatory or Discretionary?

Discretionary Discretionary Justification: Promoting increased savings for retirement is important.

> Aggressive deferred compensation programs also are a valuable retention and recruitment tool. The 2024 annual cost of the Match contribution is projected to total approximately \$750,000 based on

2023 contributions (\$700,000) and a projected increase in qualifying participation (\$50,000) in the 457 Deferred

Compensation Plan.

Yes Is the general fund affected?

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1934

Future fiscal impact:

Since a deferred compensation Match must be made on a calendar year basis, and the County operates on a fiscal year basis, some portion of the authorized Match may affect the following year's budget. Whether it actually affects the following year's budget depends on the timing and the amount of deferrals authorized by participants into their 457 Deferred Compensation Plan subaccounts. Past experience with the Match demonstrates that most, but not all, Employer Contributions involving a Match have been paid during the first six months of each calendar year, which are the last six months of each fiscal year. Thus, based on past experience, the impact on each department's Fiscal Year 2024-2025 budget of the proposed calendar year 2024 Employer 401(a) contribution Match is expected to be minimal. To be consistent with IRS regulations, the decision whether to offer a Match must be made by the County annually by adopting a resolution approving the amount of the Match and the applicable conditions. Approving a Match in one year does not obligate the Board to approve a similar Match (or any Match) in the following calendar year. Therefore, approving the proposed \$1,600 Match, \$600 Match, and \$900 Match for 2024 will have no binding future fiscal impact beyond calendar year 2024 other than the potential but minimal effect noted in the previous paragraph.

Consequences if not approved:

The Board is under no legal obligation to provide a 401(a) Employer Matching contribution of \$1,600, \$600, or \$900 for qualifying participants. However, since aggressive deferred compensation programs are viewed by most private and public corporations as an important and valuable retention and recruitment tool, not approving the Match could have a negative effect on the County's ongoing recruitment efforts and the ability to retain staff and avoid excessive turnover. Additionally, the \$600 Match for SEIU employees and \$900 Match for NCPPA is a negotiated benefit.

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 August 6, 2002, the County established the 401(a) Retirement Savings Plan ("Plan") for the benefit of Management, Confidential, and Non-Classified Officers and Non-Classified employees. Section 4.02-1 of the Plan provides that the County may provide an Employer Contribution involving a Match ("Match") to be

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1934

allocated to the 401(a) pre-tax sub-account of each eligible officer or employee. To encourage saving for retirement, the Match has historically been made available to any Management, Confidential, or Non-Classified officer or employee of the County who participates in and has deferred an equivalent amount of their income into the County's 457 Deferred Compensation Plan (i.e., a dollar-for-dollar match up to a stated maximum). In its collective bargaining agreement with Service Employee International Union, Local 1021 (SEIU), the County agreed to provide a deferred compensation Match during calendar year 2024 for the benefit of County employees who are SEIU members and participate in the Plan. In its total tentative agreement with the Napa County Probation Professionals Association (NCPPA), the County agreed to provide a deferred compensation Match during calendar year 2024 for the benefit of County employees who are NCPPA members and participate in the Plan.

Whether a Match is provided is determined annually and is subject to the sole discretion of the County acting through its Board of Supervisors. Internal Revenue Service regulations state that if a Match is to be provided, it must be established by resolution of the Board of Supervisors prior to the commencement of the calendar year during which the Match will be made available. The Resolution must identify the maximum amount of the Match and the conditions under which the Match will be made. The recommended Resolution satisfies these requirements.

The past practice of the Board has been to make available a Match for the benefit of each Management, Confidential, and Non-Classified officer, and employee participant. The Board previously authorized a \$1,600 Match for calendar year 2023. The Match recommended by the County Executive Officer to be made available in 2024 is \$1,600 per Management, Confidential, and Non-Classified officer, and employee participant, \$600 per SEIU employee participant, and \$900 per NCPPA employee participant. The funds to cover the recommended Match are included in the County's Fiscal Year 2023-2024 budget.

RESOLUTION NO. 2023-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, ESTABLISHING A MATCH FOR CALENDAR YEAR 2024 FOR THE BENEFIT OF MANAGEMENT, CONFIDENTIAL, AND NON-CLASSIFIED EMPLOYEES AND NAPA COUNTY EMPLOYEES WHO ARE MEMBERS OF SERVICE EMPLOYEES' INTERNATIONAL, LOCAL 1021 AND NAPA COUNTY PROBATION PROFESSIONALS' ASSOCIATION WHO PARTICIPATE IN THE COUNTY'S 401(a) RETIREMENT SAVINGS PLAN

WHEREAS, on August 6, 2002, Napa County established its 401(a) Retirement Savings Plan ("Plan"); and

WHEREAS, the Plan provides at Section 4.02 that Napa County ("Employer") shall annually determine, in its sole discretion, the amount of any employer contribution ("Employer Contribution") to be made to the Plan during the next calendar year; and

WHEREAS, the Plan further provides that the amount of the Employer Contribution, if any, for a calendar year shall be authorized by adopting a Resolution establishing the amount of said Employer Contribution, and the conditions related thereto, on or before January 1st of the calendar year during which the Employer Contribution shall be made available; and

WHEREAS, Section 4.02-1 provides that upon the adoption of a Resolution identifying the amount of an Employer Contribution for the next calendar year, which is designated as a matching 401(a) Employer Contribution ("Match"), the Employer during that next calendar year, shall make a contribution to the 401(a) pre-tax sub-account of any officer or employee who is a Plan participant ("Participant") in an amount equal to the contribution such Participant makes to their 457 Deferred Compensation Plan pre-tax sub-account during that same calendar year, provided, however, that the Match shall not exceed the maximum amount set forth in said Resolution; and

WHEREAS, the County Executive Officer's recommended budget proposed that the County should provide a deferred compensation Match during calendar year 2024 for the benefit of Management, Confidential, and Non-Classified employees and officers who participate in the Plan; and

WHEREAS, in its collective bargaining agreement with Service Employee International Union, Local 1021 (SEIU), the County Board of Supervisors agreed to provide a deferred compensation Match during calendar year 2024 for the benefit of County employees who are SEIU members and participate in the Plan; and

WHEREAS, after reviewing the County's recommended budget and the Collective Bargaining Agreement with SEIU, the County Executive Officer recommends implementation of a \$600 Match for calendar year 2024 for the benefit of employees who are members of SEIU and Participants in the Plan.

WHEREAS, after reviewing the County's recommended budget, the County's Collective Bargaining Agreement with SEIU and the County's Management Compensation Plan, the

County Executive Officer recommends implementation of a \$1,600 Match for calendar year 2024 for the benefit of Management, Confidential, and Non-Classified officers and employees who are Participants in the Plan; and

WHEREAS, in its collective bargaining agreement with Napa County Probation Professionals Association (NCPPA), the County Board of Supervisors agreed to provide a deferred compensation Match during calendar year 2024 for the benefit of County employees who are NCPPA members and participate in the Plan; and

WHEREAS, after reviewing the County's recommended budget and the Collective Bargaining Agreement with NCPPA, the County Executive Officer recommends implementation of a \$900 Match for calendar year 2024 for the benefit of employees who are members of NCPPA and Participants in the Plan.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors approves a Match of up to \$1,600 during calendar year 2024 for the benefit of each Management, Confidential, and Non-Classified officer and employee who is, or who becomes, a Participant in the Plan during 2024, approves a Match of up to \$600 during calendar year 2024 for the benefit of each employee who is a member of SEIU and who is, or who becomes a Participant in the Plan during 2024, and approves a Match up to \$900 during calendar year 2024 for the benefit of each employee who is a member of NCPPA and who is, or who becomes a Participant in the Plan during 2024.

BE IT FURTHER RESOLVED, that any approved Match is a maximum and is not a guaranteed sum, and therefore for those Management, Confidential, and Non-Classified officer and employee Participants who fail to contribute \$1,600 to their 457 Deferred Compensation Plan pre-tax sub-account during calendar year 2024, those employee Participants who are members of SEIU who fail to contribute \$600 to their 457 Deferred Compensation Plan pre-tax sub-account during calendar year 2024, and those employee Participants who are members of NCPPA who fail to contribute \$900 to their Deferred Compensation Plan pre-tax sub-account during calendar year 2024, the Match shall be limited to an amount equal to the contribution each such Participant actually makes to their 457 Deferred Compensation Plan pre-tax sub-account during calendar year 2024.

BE IT FURTHER RESOLVED, that the Board of Supervisors hereby approves that this Resolution shall remain in effect only during calendar year 2024.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

BE IT FURTHER RESOLVED, that the Board of Supervisors hereby directs the Clerk of the Board of Supervisors to deliver a copy of this Resolution to the Board of Control forthwith.

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 5^h day of December 2023, by the following vote:

AYES:	SUPERVISORS	
NOES:	SUPERVISORS	
ABSTAIN:	SUPERVISORS	
ABSENT:	SUPERVISORS	
		NAPA COUNTY, a political subdivision of the State of California
	Ву:	BELIA RAMOS, Chair of the Board of Supervisors

APPROVED AS TO FORM	APPROVED BY THE NAPA	ATTEST: Neha Hoskins
Office of County Counsel	COUNTY	Clerk of the Board of Supervisors
-	BOARD OF SUPERVISORS	_
By: Susan B. Altman		
	Date:	By:
Date: 11/20/2023	Processed By:	
	Deputy Clerk of the Board	



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1947

TO: Board of Supervisors

FROM: Christine Briceño, Director of Human Resources

REPORT BY: Joy Cadiz, Staff Services Manager

SUBJECT: Adoption of a Resolution Amending the Table and Index of Classes, Appropriate

Personnel Policies and the Departmental Allocation List for the Probation

Department

RECOMMENDATION

Director of Human Resources and Chief Probation Officer request adoption of a Resolution amending the Table and Index of Classes, Appropriate Personnel Policies, and the Departmental Allocation List for the Probation Department, by adding 1.0 full-time equivalent (FTE) Probation Administrative Manager and deleting 1.0 FTE Staff Services Manager and 0.5 FTE Juvenile Hall Counselor I/II, effective December 9, 2023, with a decrease in FTE, and net savings to the County General Fund.

EXECUTIVE SUMMARY

If approved, this request amends the Table and Index of Classes, Appropriate Personnel Policies, and Departmental Allocation List by adding a 1.0 FTE Probation Administrative Manager and deleting a 1.0 FTE Staff Services Manager and deleting a 0.5 FTE Juvenile Hall Counselor I/II within the Probation Department.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? Yes

Is it Mandatory or Discretionary?

Discretionary

Discretionary Justification: As a result of new legislation, there has been an increase in

administrative requirements and new processes that need to be developed and administered including victim restitution. This position is required to perform such duties which are above the

currently allocated classification.

Is the general fund affected? No

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1947
Future fiscal impact:	The increased cost of salaries and benefits for the remainder of Fiscal Year 2023-2024 for the Probation Administrative Manager is approximately \$5,350 (\$12,000 annually), offset by deletion of a vacant 0.5 FTE Juvenile Hall Counselor I/II with an annualized decreased cost estimated at \$60,000 which will be budgeted	
Consequences if not approved:	accordingly in future fiscal years. If the addition of the Probation Administ approved duties will not be performed by classification.	•
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

Due to new legislation, the Probation Department has seen an increase in administrative demands that expands on administrative duties including victim restitution. There are no other viable options to oversee this specialized administrative work within the Department that includes fiscal, personnel, and overall responsibility of all administrative functions within the Department. This action will help create a workplace culture where individuals and business operations can thrive by ensuring equitable and realistic work expectations, which will strengthen effective, efficient, and fiscally responsible County Operations.

The Chief Probation Officer has assessed staffing needs and has determined a vacant position is no longer needed. Deletion of the 0.5 FTE Juvenile Hall Counselor I/II position will provide a salary and benefit savings of approximately \$60,000 annually which exceeds the \$12,000 annual increase in cost of salary and benefits for the new Probation Administrative Manager.

Therefore, the Director of Human Resources and Chief Probation Officer requests the deletion of a 1.0 FTE Staff Services Manager and a 0.5 FTE Juvenile Hall Counselor I/II, and the addition of a 1.0 FTE Probation Administrative Manager, effective December 9, 2023, with a net decrease in FTE, and net savings to the General Fund, and amending the Table and Index of Classes and appropriate personnel policies to reflect this change.

RESOLUTION NO. 2023-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING THE TABLE AND INDEX OF CLASSES AND APPROPRIATE PERSONNEL POLICIES AND THE DEPARTMENTAL ALLOCATION LIST FOR THE PROBATION DEPARTMENT, EFFECTIVE DECEMBER 9, 2023.

WHEREAS, Government Code section 25300 provides that the Board of Supervisors shall provide for the number, compensation, tenure, appointment and conditions of employment of county employees and that such action may be taken by ordinance or resolution; and

WHEREAS, section 2.100.280 of the Napa County Code provides that the number of positions and classifications in the Departmental Allocation List shall be established from time to time by resolution of the Board of Supervisors; and

WHEREAS, Napa County Code section 2.100.270 provides that the "Table and Index" may be amended by Board of Supervisors resolution; and

WHEREAS, the Director of Human Resources recommends that the proposed changes to the Table and Index of Classes, and the Department Allocation List for the Probation Department as set forth in Exhibit "A," be implemented.

NOW, THEREFORE, BE IT RESOLVED, that the Napa County Board of Supervisors hereby approves the changes to the Table and Index of Classes and appropriate personnel policies, and Department Allocation List for the Probation Department, as set forth in Exhibit "A," effective December 9, 2023.

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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 5^{th} day of December 2023, by the following vote:

AYES:	SUPERVISORS	
NOES:	SUPERVISORS	
ABSTAIN:	SUPERVISORS	
ABSENT:	SUPERVISORS	
		NAPA COUNTY, a political subdivision of the State of California
	Ву:	
	·	BELIA RAMOS, Chair of the
		Board of Supervisors

APPROVED AS TO FORM	APPROVED BY THE NAPA	ATTEST: NEHA HOSKINS
Office of County Counsel	COUNTY	Clerk of the Board of Supervisors
	BOARD OF SUPERVISORS	
By: Susan B. Altman, Deputy		
	Date:	By:
Date: November 20, 2023		
	Processed By:	
	Deputy Clerk of the Board	

EXHIBIT A

Director of Human Resources requests approval of the following actions, effective December 9, 2023:

- 1. Amend the Table and Index of Classes as follows:
 - a. Add:

Probation Administrative Manager (CMGT 346) \$61.97 - \$75.15 (approximate hourly rate)

- 2. Amend Part I: Section 37C-3 of the Napa County Policy Manual, Management Compensation Plan-Management Non-Classified (Other), by adding Probation Administrative Manager to Attachment 1, Part A.
- 3. Amend Part I: Section 37A of the Napa County Policy Manual, Employer-Employee Relations Policy, by adding Probation Administrative Manager to the List of Management Classes.
- 4. Amend Part I: Section 37B of the Napa County Policy Manual, Overtime Policy, by adding Probation Administrative Manager to the List of Classes Exempt from Overtime.
- 5. Amend the Departmental Allocation List as follows:

Department	Budget	Position	Class Title	Effective	Change
	Unit	Control #		Date	
Probation	14200-00	TBD*	Staff Services Manager	12/09/23*	-1.00
Probation	14200-00	NEW	Probation Administrative Manager	12/09/23	+1.00
Probation	14210-00	1011522	Juvenile Hall Counselor	12/09/23	-0.50

^{*}Delete selected Position Control Number upon subsequent vacancy after recruitment.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1952

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 the

Behavioral Health Division of the Health and Human Services Agency

RECOMMENDATION

Director of Human Resources and Director of Health and Human Services Agency request adoption of a Resolution amending the Departmental Allocation List for the Behavioral Health Division of the Health and Human Services Agency, with no net increase in full-time equivalents (FTEs), and no impact to the County General Fund.

EXECUTIVE SUMMARY

If approved, this request reclassifies a 1.0 FTE Alcohol and Drug Counselor III position to a 1.0 FTE Senior Mental Health Worker within the Behavioral Health Division of the Health and Human Services Agency, effective December 9, 2023.

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.

File ID #: 23-1952 **Board of Supervisors Agenda Date:** 12/5/2023

BACKGROUND AND DISCUSSION

Human Resources reviewed the assigned duties and required certifications of an incumbent in the Alcohol and Drug Counselor III classification within the Behavioral Health Division of the Health and Human Services Agency. Human Resources determined that the most appropriate classification for the incumbent was Senior Mental Health Worker and the incumbent concurs. If approved, this action will reclassify the incumbent based on their assigned duties and qualifications. The County will also follow Section 25.1 of the Napa County SEIU N.A.P.E. MOU regarding Salary Upon Position Reclassification, and the employee's salary will not change.

Therefore, the Director of Human Resources and Director of Health and Human Services Agency request adoption of a Resolution amending the Departmental Allocation List for the Behavioral Health Division of the Health and Human Services Agency, with no net increase in full-time equivalents (FTEs).

RESOLUTION NO. 2023-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING THE DEPARTMENTAL ALLOCATION LIST FOR THE BEHAVIORAL HEALTH DIVISION OF THE HEALTH AND HUMAN SERVICES AGENCY, EFFECTIVE DECEMBER 9, 2023.

WHEREAS, Government Code section 25300 provides that the Board of Supervisors shall provide for the number, compensation, tenure, appointment and conditions of employment of county employees and that such action may be taken by ordinance or resolution; and

WHEREAS, Napa County Code section 2.100.280 provides that the Board of Supervisors establishes the number of positions and classifications in the Departmental Allocation List by resolution; and

WHEREAS, the Director of Human Resources recommends that the proposed changes to the Departmental Allocation List for the Behavioral Health Division of the Health and Human Services Agency, be implemented as set forth in Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED, that effective December 9, 2023, the Napa County Board of Supervisors hereby approves the changes to the Departmental Allocation List for the Behavioral Health Division of the Health and Human Services Agency, as set forth in Exhibit "A."

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

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 5^{th} day of December 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	APPROVED BY THE NAPA	ATTEST: NEHA HOSKINS
Office of County Counsel	COUNTY	Clerk of the Board of Supervisors
	BOARD OF SUPERVISORS	
By: Susan B. Altman, Deputy		
	Date:	By:
Date: November 19, 2023		
	Processed By:	
	Deputy Clerk of the Board	

EXHIBIT A

Director of Human Resources requests approval of the following actions, effective December 9, 2023:

1. Amend the Departmental Allocation List as follows:

Department	Budget	Position	Employee	Class Title	Effective
	Unit	Control #	Number		Date
HHSA-					Incumbent's
Behavioral Health	20002-00	1618	10441	Alcohol and Drug Counselor III	Current Class
HHSA-					Incumbent New
Behavioral Health	20002-00	1294	10441	Senior Mental Health Worker*	Class eff. 12/9/23

^{*}Incumbent (EE #10441) reclassified to Senior Mental Health Worker, underfilling Mental Health Counselor allocation, and Y-Rated at hourly rate of \$46.19/hr.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1978

TO: Board of Supervisors

FROM: Jon Gjestvang, Chief Information Officer

REPORT BY: Julia Bordona, Staff Services Manger

SUBJECT: Memorandum of Understanding No. 8672 for the North Bay North Coast

Broadband Consortium

RECOMMENDATION

Chief Information Officer requests the approval of and authorization for the Chair to sign Memorandum of Understanding No. 8672 among the Counties of Marin, Mendocino, Napa, and Sonoma as part of their participation in the North Bay North Coast Broadband Consortium, with a term of January 1, 2024 through December 31, 2027 to improve broadband access to the underserved communities in the North Bay/North Coast Region.

EXECUTIVE SUMMARY

On January 7, 2014, the Board approved a resolution endorsing Napa County's membership in the North Bay North Coast Broadband Consortium (NBNCBC), which secured grant funding to expand and integrate broadband internet access to underserved communities in the counties of Marin, Mendocino, Napa, and Sonoma. The consortium jointly submitted a grant application to the California Public Utilities Commission (CPUC) California Advanced Services Fun ("CASF") Rural and Urban Regional Broadband Grant Program, as the Consortium, to obtain grant funds for that purpose. Board approval of the 2014 Memorandum of Understanding (MOU) No. 8219, which authorized grant acceptance and fund distribution, formed the NBNCBC Oversight Committee and defined the structure and roles of the NBNCBC Oversight Committee. On December 20, 2016, Napa County approved MOU No. 8496 to accept \$250,000 in grant funds and continued participation with NBNCBC for the period of January 1, 2017 through June 30, 2019.

After successfully completing four years of work utilizing \$500,000 in grant funds from the CPUC Rural and Urban Regional Broadband Consortia Grant Account, the NBNCBC Oversight Committee approved pursuing a new \$450,000 three-year grant from the CPUC Advanced Services Fund Rural and Urban Regional Broadband Consortia Grant Account (up to \$150,000 per year) to enable Marin, Mendocino, Napa, and Sonoma Counties to continue work together as NBNCBC to implement the CPUC Decision 18-10-32 October 31, 2018 and the Project Plan included in the prior agreement. The goal of the CPUC through this program is to provide funding for projects that will provide broadband access to no less than 98% of the California households in each of the consortia regions as identified by CPUC. Authorized parties will continue to work to coordinate efforts to improve broadband access to the North Bay / North Coast Region.

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1978

On June 18, 2019, the Board approved Amendment No. 1 to MOU No. 8496 to extend the term to December 31, 2023 to improve broadband access to the underserved communities in the North Bay/North Coast region.

Today's request to approve MOU No. 8672, a renewal of the parties' previous MOU, is required to authorize continued participation in the NBNCBC from January 1, 2024 through December 31, 2027. There is no fiscal impact to Napa County as the Sonoma County Economic Development Board shall continue to serve as the fiscal agent for the parties for purposes of the grant.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

Is it Mandatory or Discretionary? Discretionary

Discretionary Justification: The Napa County Broadband team was formed to address unserved

and underserved broadband access for County residents and

businesses.

The County will no longer participate in the NBNCBC Consequences if not approved:

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 Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On January 7, 2014, the Board approved a resolution endorsing Napa County's membership in the North Bay / North Coast Broadband Consortium (NBNCBC), which seeks to secure grant funding to expand and integrate broadband internet access to underserved communities in the counties of Marin, Mendocino, Napa, and Sonoma. The consortium jointly submitted a grant application to the California Public Utilities Commission (CPUC) California Advanced Services Fund ("CASF") Rural and Urban Regional Broadband Grant Program, as the Consortium, to obtain grant funds to gather data to: (1) identify immediate and future broadband needs and demands of residents and entities that are located in the North Bay/North Coast Region; (2) assess reliability and accuracy of the regional broadband data compiled by CPUC and National Telecommunications and Information Administration (NTIA); and (3) assist broadband providers by giving providers access to this data so the providers can ensure that standard or broadband access is made available throughout the North Bay/North Coast Region.

CPUC adopted resolution T-17445 approving up to \$250,000 in a two-year grant of funds (up to \$125,000 per year) to enable Marin, Mendocino, Napa, and Sonoma Counties to work together to implement the CPUC approved NBNCBC Annual Work Plan, Project Schedule, and Budget for each year. The approval of the 2014 Memorandum of Understanding (MOU) No. 8219 was required to authorize grant acceptance and fund distribution, form the NBNCBC Oversight Committee, and define the structure and roles of the NBNCBC Oversight Committee.

In December 2016, upon completing work on the \$250,000 two-year grant from CPUC Rural and Urban Regional Broadband Consortia Grant Account, CPUC staff recommended Resolution T-17544 to the CPUC Commissioners, who approved a new \$250,000 two-year grant of funds (up to \$125,000 per year) to enable

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Marin, Mendocino, Napa, and Sonoma Counties to work together as NBNCBC to implement the CPUC approved NBNCBC Action Plan and Budget for each year. On December 20, 2016, Napa County approved MOU No. 8496 to accept \$250,000 in grant funds and continued participation with NBNCBC for the period of January 1, 2017 to June 30, 2019.

After successfully completing work on the \$500,000 four-year grant from CPUC Rural and Urban Regional Broadband Consortia Grant Account, the NBNCBC Oversight Committee approved pursuing a new \$450,000 three-year grant from the CPUC Advanced Services Fund Rural and Urban Regional Broadband Consortia Grant Account (up to \$150,000 per year) to enable Marin, Mendocino, Napa, and Sonoma Counties to continue to work together as NBNCBC to implement the CPUC Decision 18-10-32 October 31, 2018 and the Project Plan included in the amended agreement. The goal of the CPUC through this program is to provide funding for projects that will provide broadband access to no less than 98% of the California households in each of the consortia regions as identified by CPUC. Authorized parties will work to coordinate efforts to improve broadband access to the North Bay / North Coast Region.

On June 18, 2019, the Board approved Amendment No. 1 to MOU No. 8496 to extend the term to December 31, 2023 to improve broadband access to the underserved communities in the North Bay/North Coast region.

Today's approval to enter MOU No. 8672, a renewal of the parties' previous MOU, is required to authorize County of Sonoma to accept grant funds from the CPUC Advanced Services Fund Rural and Urban Regional Broadband Consortia Grant Account, as well as authorize the continuation of the NBNCBC from January 1, 2024 to December 31, 2027. This renewed MOU authorizes the Sonoma County Economic Development Board to continue to serve as the fiscal agent for the Consortium and distribute the funds to each of the counties in accordance with the budget; hence there is no fiscal impact to Napa County. The MOU also outlines the roles of the NBNCBC Oversight Committee, comprised of a Board of Supervisors member from each county. The roles of the NBNCBC Oversight Committee are to:

- Monitor the progress of the overall NBNCBC Action Plan;
- Act as the common interface to the NBNCBC counties and their Boards of Supervisors; and
- Provide unified representation of the interests of the four counties with the major incumbent and potential broadband/Internet providers.

The NBNCBC Oversight Committee does not have authority to set public policy. Public policy broadband issues and plans that affect a NBNCBC county are to be made by the appropriate county governing bodies within that county. When public policy broadband issues and broadband plans cross over NBNCBC counties, the four county Boards of Supervisors will work towards consensus. A majority of the Committee Members

shall constitute a quorum of the Committee, except that less than a quorum may adjourn from time to time in accordance with law. Board members who are currently active in member county broadband efforts include Marin County Supervisor Dennis Rodoni, Napa County Supervisor Anne Cottrell, Mendocino County Supervisor Ted Williams, and Sonoma County Supervisor Chris Coursey.

The Consortium is run by the NBNCBC Management Team consisting of a Consortium Project Manager and four County Managers, one for each county. The County Broadband team has been serving in this role for Napa **Board of Supervisors** File ID #: 23-1978 **Agenda Date:** 12/5/2023

County. The team meets monthly via conference call or in person. The roles of the team are to:

- Execute Work Plans;
- Interface with the NBNCBC Oversight Committee on an ongoing basis;
- Through the County Managers, interface and work with the community-based advisory groups and leaders in the respective counties;
- Provide quarterly reports to the NBNCBC Oversight Committee and the CASF;
- Formulate and present issues and opportunities that cut across the four counties to the NBNCBC Oversight Committee; and
- Provide information to the public.

Any funding not covered in the new three-year grant from the CPUC Advanced Services Fund Rural and Urban Regional Broadband Consortia Grant Account will be reviewed by the Broadband team for other potential grant opportunities.

MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF SONOMA, THE COUNTY OF MARIN, THE COUNTY OF MENDOCINO, AND THE COUNTY OF NAPA FOR THE NORTH BAY NORTH COAST BROADBAND CONSORTIUM

This Memorandum of Understanding ("MOU"), dated	_ ("Effective
Date"), is made by and between the County of Sonoma ("Sonoma")	, the County of
Marin ("Marin"), the County of Mendocino ("Mendocino") and the Co	ounty of Napa
("Napa") (collectively referred to as the "Parties").	

RECITALS

Whereas, broadband access, capacity, speeds, and services to the citizens and entities in the region of Marin, Mendocino, Napa, and Sonoma ("North Coast Region") are insufficient and inequitably distributed; and

Whereas, broadband access below the Federal Communication Commission ("FCC") standard speeds in any portion of the North Coast Region damages the local economy, impairs the quality of life for residents, degrades visitor experience, and discourages economic development; and

Whereas, coordination among the Parties' efforts improves broadband access in the North Coast Region and is in the public interest; and

Whereas, the Parties have previously entered into Memorandums of Understanding to cooperate and participate as the North Bay North Coast Broadband Consortium ("NBNCBC"), to facilitate joint broadband initiatives, coordinate efforts and programs, and receive broadband-related funding, including from the California Public Utilities Commission's ("CPUC") Advanced Services Fund Rural and Urban Regional Broadband Consortia Grant Account; and

Whereas, the NBNCBC has been approved for at least one new round of funding from the CPUC's Advanced Services Fund Rural and Urban Regional Broadband Consortia Grant Account ("CASF Grant"), to continue to work together as NBNCBC to implement the <u>2023-2025 NBNCBC CASF Consortium Grant</u> work plan; and

Whereas, the NBNCBC has also been approved for a California Emerging Technology Funds ("CETF") Regional Broadband Consortium Leadership Grant for Digital Equity Planning and regional efforts to streamline broadband permitting,

consistent with regional strategic planning as outlined in the corresponding work plan; and

Whereas, the CASF Grant and the CETF funding each are subject to use, performance, and accountability terms and conditions as required by the respective grant and funding programs and regulations, and each of the Parties is prepared to comply with those terms and conditions with regard to their use of the funds; and

Whereas, the Parties are generally empowered to engage in public broadband and internet access service activities, including pursuant to Government Code sections 26231 and 53167. Government Code section 6500 et seq, authorizes Parties to enter this MOU to coordinate efforts to assist with strategic planning and community outreach to improve broadband access to the North Coast Region.

Now, Therefore, Be It Understood as follows:

- 1. The Parties authorize the continuation of the North Bay North Coast Broadband Consortium and its Oversight Committee ("Oversight Committee"). The Oversight Committee shall be comprised of one supervisor from each NBNCBC county, designated by the respective Board of Supervisors, and a NBNCBC Project Manager. The NBNCBC Project Manager shall be a non-voting member of the Oversight Committee. Each of the Oversight Committee Members ("Committee Members") shall serve at the pleasure of the governing board of the Party who appointed the Committee Member and may be removed by such governing body at any time. If at any time a vacancy occurs on the Oversight Committee, a replacement shall be appointed by the respective governing body to fill the position of the previous Committee Member within 90 days of the date that such position becomes vacant.
- The roles of the NBNCBC Oversight Committee include the following.
 - a. Monitor the progress of the NBNCBC grants' work plans and ensure compliance with the grant restrictions and all federal, state, and local laws.
 - b. Develop and maintain an Action Plan. The Action Plan will focus on the following: 1) work to facilitate planning for the project areas: 2) coordination with various community, county, state, and federal agencies on broadband goals and policies; 3) planning activities associated with future broadband funding and other grants; and 4) planning efforts and community outreach for middle-mile broadband infrastructure access to benefit each county and the region. The Oversight Committee shall consider whether policy support

from each of the respective Boards of Supervisors and revenue funding for the projects described in the NBNCBC Action Plan are available.

- c. Act as the common interface to the NBNCBC counties and their Boards of Supervisors. As part of this role, provide ongoing leadership in the development and deployment of broadband capabilities and services that will drive economic development in the region and to better serve the residents, businesses, and anchor institutions.
- d. Provide representation of the interests of the NBNCBC counties with the major incumbent and potential broadband/Internet providers.
- e. Represent the interests of the Parties, subject to the authority limitations stated in the following paragraphs, in best efforts to ensure the broadband goals and needs of this region are met. Notwithstanding, neither the Oversight Committee or the NBNCBC have authority to:
 - Set public policy. Public policy for broadband issues and plans that affect a single Party is to be made by the respective governing body. When public policy decisions for broadband issues and plans affect other NBNCBC counties, the Parties will work to reach consensus.
 - Make or enter into contracts or employ agents or employees.
 - iii. Acquire, entitle, contract, manage, maintain, or operate any buildings, infrastructure, works, real property, or improvements, or acquire property by eminent domain.
 - iv. Sue or be sued in its own name or incur debts, liabilities, and obligations.
- 3. The Oversight Committee shall meet quarterly and receive quarterly reports from the NBNCBC Management Team. All meetings of the Oversight Committee shall comply with the Ralph M. Brown Act (Government Code section 54950 et seq.), the California Public Records Act (Government Code section 7920.000 et seq.), and all federal and state conflicts of interest laws, including grant requirements and the California Political Reform Act (Government Code section 81000 et seq.).

- 4. A majority of the Committee Members shall constitute a quorum of the Oversight Committee, except that less than a quorum may adjourn from time to time in accordance with law.
- 5. The Oversight Committee is authorized to adopt bylaws to otherwise govern its procedures.
- 6. Committee Members shall serve without compensation but may be paid actual expenses incurred in the performance of their duties. Any such payments of expenses shall fully comply with applicable grant or funding terms and all applicable laws and regulations.
- 7. A NBNCBC Management Team shall be constituted, comprised of officials and staff from each of the participating Parties/ The Management Team shall provide reports to the Oversight Committee, and perform duties as needed in furtherance of this MOU and as directed by the Oversight Committee.
- 8. The County of Sonoma, through its Economic Development Board, shall serve as the fiscal agent ("Fiscal Agent") for the Parties for purposes of grants and outside funding. The Fiscal Agent shall perform limited financial services associated with the administration of grants as set forth in the grant's terms and requirements. The Fiscal Agent shall establish a bank account solely for grant funds. The Fiscal Agent and the County of Sonoma shall not be responsible for paying any reimbursement requests or other expenditures that are not in compliance with this MOU or any involved grant. The Fiscal Agent and the County of Sonoma shall not be responsible for determining accuracy of each Party's invoices or compliance with grant terms or any other funding conditions. Each Party shall be responsible for its own compliance with grant and funding terms and conditions and, if applicable, compliance with state laws such as prevailing wages, competitive bid requirements, and local competitive contract selection procedures.

The County of Sonoma shall be entitled to expend grant funding and other NBNCBC funds for all direct expenses on behalf of the NBNCBC, including for external audit costs, and to retain reasonable amounts for administration costs as Fiscal Agent, as permitted by applicable grant funding and program allowance.

9. The Parties authorize the County of Sonoma, consistent with the Action Plan, to apply on behalf of and accept grant funds from all sources, including from the CPUC, CETF, and other governmental entities, and to distribute the funds to each of the Parties, as set forth in the grant's work plan and budget.

Notwithstanding, the County of Sonoma does not warrant or guarantee any grant or receipt of any funding.

Each Party shall be solely responsible for its own grant compliance, and for understanding and implementing all grant requirements for its use of funds. The County of Sonoma, as Fiscal Agent and pass-through entity for funds, shall not be responsible or liable to any Party with regard to that Party's receipt and use of funds, including having no duty to inform, train, advise, implement, or monitor.

10. All reports, documents, payment requests, and declarations shall be mailed to the Fiscal Agent at the following address:

Sonoma County Economic Development Board c/o Rebekah Heinze, Fiscal Analyst 141 Stony Circle, Suite 110 Santa Rosa, CA 95401

- 11. Each Party shall submit invoices to the Fiscal Agent bi-annually on the following dates: August 15 and February 15 of each year, or more often if required in accordance with any grant reporting terms. The Party shall include a signed declaration with each invoice ensuring the accuracy of the payment request and the compliance with the terms of the grant and compliance with all federal, state, and local laws, including prevailing wage and competitive bid requirements, if applicable. A copy of the declaration is attached hereto as Exhibit A.
- 12. Neither federal, state, local income tax, nor payroll tax of any kind shall be withheld or paid by Fiscal Agent on behalf of the Parties or employees of the Parties. Parties' employees or representatives shall not be treated as employees of the Fiscal Agent with respect to the services performed hereunder for federal, state, or local tax purposes.
- 13. Each Party shall fully comply with all federal, state, and local laws, rules, executive orders, and regulations that may be applicable to this MOU, including compliance with prevailing wage laws set forth in California Labor Code section 1720, and with all grant terms and conditions to the extent of use of any grants or funds obtained by NBNCBC, including as to the CASF Grant and CETF grant. If applicable, each Party shall furnish certificates to the effect that it has complied with said laws, rules, regulations, and/or grant terms and conditions.

- 14. Effective Date and Term. This MOU shall commence January 1, 2024, and terminate December 31, 2027, unless terminated as otherwise permitted herein, and subject to the rights of the Parties to withdraw as set forth below.
- 15. <u>Mutual Termination</u>. This MOU may be terminated only by the mutual agreement of all of the Parties. Upon termination of this MOU, Parties shall mutually agree upon the disposition of the grant funds in compliance with the terms of any grants. If the Parties are unable to reach an agreement on such disposition, the funds shall be apportioned pursuant to each Parties proportionate share which shall be determined by the Fiscal Agent in accordance with applicable grant terms. The grant restrictions and state and local laws shall continue to apply to the use of the funds.
- 16. <u>Withdrawal</u>. Individual Parties may withdraw from this MOU without affecting the continuing participation by the remaining Parties.
- 17. <u>Amendment of this MOU.</u> This MOU may be amended only by the written agreement of all participating Parties.
- 18. <u>Indemnification</u>. Each Party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expenses, including attorneys' fees and witness costs, to the extent arising from, in connection with, or caused by any act, omission, or negligence of such indemnifying Party or that of its agents, employees, contractors, subcontractors, or invitees, and regardless of whether or not there is concurrent or contributory negligence on the indemnitee's part. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts, this indemnity provision survives the MOU.
- 19. <u>Severability</u>. If one or more clauses, sentences, paragraphs, or provisions of this MOU shall be held to be unlawful, invalid, or unenforceable, it is hereby agreed by the Parties that the remainder of the MOU shall not be affected. Thereby, such clauses, sentences, paragraphs, or provisions shall be deemed reformed so as to be lawful, valid, and enforced to the maximum extent possible.
- 20. <u>Complete MOU</u>. This MOU constitutes the full and complete agreement of the Parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the Parties with respect to the subject matter of this MOU are merged into this MOU.

21. <u>Execution in Counterparts</u>. This MOU may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all signing Parties had signed the same instrument.

In Witness Whereof, Parties have executed this MOU as set forth below.

•		

NA	PA COUNTY, a political subdivision of
the	State of California,
Ву_	
	BELIA RAMOS, Chair
	Board of Supervisors

"COUNTY"

APPROVED AS TO FORM	APPROVED BY THE NAPA	ATTEST: NEHA HOSKINS		
Office of County Counsel	COUNTY	Clerk of the Board of Supervisors		
	BOARD OF SUPERVISORS			
By: Ryan FitzGerald (e-sign)				
Deputy County Counsel	Date:	By:		
	Processed By:			
Date: November 29, 2023				
PL No.: 104322	Deputy Clerk of the Board			

Exhibit A

North Bay North Coast Broadband Consortium (NBNCBC) Declaration of Accuracy and Completeness and Payment Request

To: County of Sonoma Economic Development Board			
From: NBNCBC Member County: Name: Title: County:			
Attached is our Report and/or Payment Request for:			
I declare under penalty of perjury under the laws of the State of California that, any and all payment requests hereby submitted are accurate and complete; fully comply with all federal, state and local laws, including prevailing wage and competitive bid requirements, if applicable; and, are eligible for reimbursement and fully comply with the applicable grant terms and conditions, including corresponding Work Plan, that this request is being submitted for.			
Signature:			
Print Name:			
Date:			



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1798

TO: Board of Supervisors

FROM: Brian Bordona, Director of Planning, Building and Environmental Services

REPORT BY: Ryan Melendez, Planner II - Sustainability

SUBJECT: Approval of a Funding and Implementation Agreement with the Association of

Bay Area Governments (ABAG)/Metropolitan Planning Commission (MTC)

RECOMMENDATION

Director of Planning, Building and Environmental Services requests approval of and authorization for the Chair to sign Agreement No. 240224B with the Association of Bay Area Governments (ABAG) for a maximum of \$1,056,770 for the term January 1, 2024 through December 31, 2027 to deliver services related to the Bay Area Regional Energy Network (BayREN) Program.

EXECUTIVE SUMMARY

In November of 2012, the California Public Utilities Commission (CPUC) issued Final Decision D.12-11-015 approving the 2013-2014 Energy Efficiency Programs and Budgets. The 2012 CPUC Final Decision created the Bay Area Regional Energy Network (BayREN) and approved over \$26 million for various programs. A number of other CPUC decisions have extended the program annually. On July 3, 2023, the CPUC issued Decision (D.) 23-06-055 ("Portfolio Application Decision") approving, among other things, budget to fund BayREN's proposed implementation activities through December 31, 2027. ABAG, as the program administrator of BayREN, and Pacific Gas and Electric Company (PG&E), as BayREN's fiscal agent, have entered into a contract to provide funding for the implementation activities approved by CPUC D. 23-06-055. The agreement is denominated under PG&E's nomenclature as Change Order 3 to Contract Work Authorization (CWA) C21158, which provides funding from January 1, 2024, to December 31, 2027, issued under and pursuant to Master Service Agreement C657The budget for Napa County and the other BayREN counties has now been finalized through the end of calendar-year 2027.

Napa County has been participating in the BayREN program since 2013. This amendment approves funding to a total of \$1,056,770 available to Napa County for the years 2024-2027. The funds support marketing and local outreach for the implementation of rebates and other energy efficiency education across the following programs: Single Family, Multi-Family, Codes and Standards, Commercial, Water Bill Savings, Green Labeling, Integrated Energy Services, Targeted Decarbonization Services, Refrigerant Replacement Program, and Climate Careers Program.

Napa County serves as the local representative to BayREN and is responsible for coordinating the scope of work across all BayREN subprograms in Napa County. Scopes of work were developed by consensus of the ten

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participating agencies, with administration provided by ABAG. Participation in BayREN is key to reducing greenhouse gas (GHG) emissions related to energy use in the County and Bay Area region.

FISCAL & STRATEGIC PLAN IMPACT

Yes Is there a Fiscal Impact? Is it currently budgeted? Yes

Where is it budgeted? Fund 1000, Subdivision 1704000 Natural Resources

Is it Mandatory or Discretionary? Discretionary

Discretionary Justification: Participation in the Bay Area Regional Energy Network (BayREN)

provides Napa County access to California Public Utilities

Commission (CPUC) funding through the Association of Bay Area Governments (ABAG)/Metropolitan Transportation Commission (MTC). The funds support implementation of energy efficiency incentives and other climate change activities across the following programs: Single Family, Green Labeling, Multi-Family, Codes and Standards, Commercial, Water Upgrades Save, Integrated Energy Services, Targeted Decarbonization Services, Refrigerant Replacement Program, and Workforce Education and Training

Program.

Yes Is the general fund affected?

Future fiscal impact: Since the agreement is based on a calendar year, not a fiscal year

> (FY), reimbursement for grant funded staff costs will occur for the first six months of FY 27-28 (through December 31, 2027). The revenue and expenses related to this grant funding will be budgeted

accordingly in future fiscal years.

If not approved, the County will not be able to participate in the Consequences if not approved:

> BayREN Energy Efficiency Programs and would not be able to market these programs to property owners, residents, jurisdictions,

and building departments.

Vibrant and Sustainable Environment County Strategic Plan pillar addressed:

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 November 2012, the California Public Utilities Commission (CPUC) issued Final Decision D.12-11-015 approving 2013-2014 Energy Efficiency Programs and Budgets. The Decision created the Bay Area Regional Energy Network (BayREN) and approved funding for programs including Single Family, Mulitfamily, Commercial, Financing and Codes and Standards.

A number of other CPUC decisions have extended the program annually.

On July 3, 2023, the CPUC issued Decision (D.) 23-06-055 ("Portfolio Application Decision") approving, among other things, budget to fund BayREN's proposed implementation activities through December 31, 2027. ABAG, as the program administrator of BayREN, and Pacific Gas and Electric Company (PG&E), as BayREN's fiscal agent, have entered into a contract to provide funding for the implementation activities approved by CPUC D. 23-06-055. The agreement is denominated under PG&E's nomenclature as Change Order 3 to Contract Work Authorization (CWA) C21158, which provides funding from January 1, 2024, to December 31, 2027, issued under and pursuant to Master Service Agreement C657: ABAG-MTC Contract for Services - ABAG and the Metropolitan Transportation Commission (MTC) entered into a Contract for Services under which MTC provides administrative and program services to ABAG.

Effective July 1, 2017, the staffs of ABAG and MTC were consolidated. MTC staff now serve both the ABAG and the MTC. As such, all interactions between ABAG and BayREN Member Agency contained within this Agreement, shall be conducted by MTC staff on behalf of ABAG. The budget for Napa County and the other BayREN counties has now been finalized through the end of calendar-year 2027.

A single jurisdiction in each of the nine counties in the Bay Area region is responsible for local coordination of the regional programs. Administration of the BayREN program is provided by ABAG/MTC. Napa County is serving as the jurisdictional representative to BayREN and will be responsible for implementing the scopes of work for all BayREN subprograms in the County. The Napa County funding amount for 2024, 2025, 2026, and 2027 in the proposed agreement is \$296,282; \$310,746; \$219,883; and \$229,859, respectively, for a total of \$1,056,770. Additionally, ABAG/MTC will hold an escrow of funds to be used in 2026 and 2027 should the County reach the budgeted funding amounts for BayREN programs in these years. This is an average increase of \$65,071 per year over 2023 funds related to the expansion of BayREN programs to include four (4) new subprograms, increases in marketing and implementation of the BayREN programs in Napa, as well as cost of living adjustments. Participation in BayREN aids in reducing GHG emissions related to energy use in existing buildings in the County. The proposed agreement also updates the attachments describing the subprograms with updated budget amounts.

The scope of work requires Napa County to be responsible for the local delivery of services for all BayREN programs. The range of services required under the BayREN program include, but are not limited to:

Administration/Governance

- *Participate in the BayREN coordination and steering committees
- *Coordinate with local governments in Napa County on the implementation of energy efficiency programs by providing access to and information about BayREN programs
- *Provide monitoring, tracking, and reporting necessary to comply with grant requirements
- *Coordinating with local PG&E energy efficiency programs, applicable Community Choice Aggregator (CCA) programs, and other BayREN Member Agency programs

Single Family Program

- *Coordinate with BayREN members
- *Communicate with Napa County stakeholders about BayREN programs and activities
- *Coordinate with other local energy efficiency programs
- *Organize local realtor and contractor networking event(s) to promote the BayREN Single Family Program
- *Conduct Napa County contractor recruitment, education, and training
- *Support regional marketing strategy development and deliver local marketing campaigns
- *Conduct outreach to homeowners including: workshops, tabling events, mail and emails, and presentations

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1798

Green Labeling Program

- *Promote Home Energy Score (HES) and real estate education trainings to local stakeholders
- *Promote and attend BayREN real estate trainings in Napa County and/or adjacent counties to provide information on BayREN and build connections with local real estate professionals
- *Promote HES rebates through workshops, mailings, social media, or other outreach campaigns
- *Identify local venues or homes for trainings and tours

Multi-Family Program

- *Recruit multifamily property owners to the program through local activities and events
- *Coordinate with other local energy efficiency and water programs
- *Coordinate with local jurisdictions and industry associations to foster relationship-building between local municipal governments and multifamily property owners
- *Assist with data collection and reporting
- *Host technical workshops and trainings

Codes and Standards Program

- *Attend and participate in Codes & Standards calls and meetings, including sharing information on relevant county projects, best practices, and similar codes-related topics
- *Coordinate with local Chief Building Officials and building department staff
- *Host local and regional trainings and recruit local governments for hosting BayREN trainings, ensuring that all arrangements are made for training sessions, and providing feedback from participants
- *Promoting quarterly Forum events, including providing email, phone, and other marketing assistance
- *Support energy policy consideration and adoption at the local government level
- *Explore, identify, and support activities to encourage and enable adoption and implementation of local government reach codes and other local, regional and state energy policies
- *Provide support for local governments within the County interested in adopting a reach code or energy policy

Water Upgrades Save (WUSave) Program

- *Support WUSave partner utilities in outreach to officials, staff, customers and other stakeholders
- *Analyze the Water Bill Savings program performance to identify gaps and provide recommendations
- *Participate in monthly WUSave Committee phone meetings
- *Assess local water, climate, and housing policy for alignment with WUSave
- *Facilitate access to County Tax Assessor and other property data to support targeted marketing
- *Identify local leaders/champions in water saving
- *Assist in development of local multifamily and commercial property leads

Commercial Program

- *Aid in the development of marketing strategies and messaging for the Commercial Program
- *Recruit property owners, contractors and business decision-makers through local activities and events facilitating introductions to local Chambers of Commerce, local merchant associations, etc.
- *Plan and organize at least one local outreach event, such as street campaigns, presentations to groups like Chambers of Commerce, outreach partnerships with Community Based Organizations, etc.
- *Report on best and highest performing activities to the Commercial Program circle

File ID #: 23-1798 **Board of Supervisors Agenda Date:** 12/5/2023

(BayREN) Refrigerant Replacement (BRR) Program (NEW)

- *Recruit property owners, contractors, and business decision-makers through local activities and events
- *Coordinate and partner with department and agencies to uncover efficiencies in marketing, such as including a BayREN Refrigerant Replacement Program with each newly issued Business License, etc.
- *Gather and research information, such as demographic and geographic characteristics to develop high-impact marketing lists and optimizing marketing campaign development and execution
- *Coordinate with local jurisdictions on ways to select and recognize program participants publicly

Integrated Energy Services (IES) Program (NEW)

- *Coordinate with Energy Watch/Local Government Partnership, local Community Choice Aggregator (CCA), and other local programs, and facilitate coordination between these offerings and the IES program
- *Analyze local program performance to identify gaps and recommendations to Program Lead
- *Support local governments who are engaging in the Energy Roadmapping process
- *Promote the Energy Concierge and Energy Roadmapping services to local government staff in all jurisdictions within Napa County
- *Host program information on local website(s) and suggesting local media and social media outlets for program content
- *Create and maintain relationships with local government staff and organization of staff members, and presenting about the program at meetings as appropriate
- *Share outreach and marketing materials, approaches, and outcomes with the IES Committee circle

Targeted Decarbonization Services (TDS) Program (NEW)

- *Coordinate with Energy Watch/Local Government Partnership, local Community Choice Aggregator, and other local programs, and facilitating coordination between these offerings and the TDS program
- *Analyze local program performance to identify gaps and recommendations to Program Lead
- *Support local governments who have buildings participating in the Decarbonization Showcase
- *Aid in the development of marketing strategies, messaging, and collateral as needed
- *Promote the Energy Concierge and Energy Roadmapping services to local government staff in all jurisdictions within the member county (towns, cities, and the unincorporated county)
- *Host program information on local website(s) and suggest local and social media outlets for program content
- *Attend decarbonization program trainings to provide information on BayREN and build connections with local government staff

Workforce Education & Training (WE&T) Program (NEW)

- *Participate in quarterly calls on workforce education, development and implementation
- *Identify potential externship opportunities for Climate Careers youth within the County as well as long-term placements for green jobs
- *Promote Climate Careers summer job opportunities to other County stakeholders such as CBOs, schools, workforce development departments, colleges, etc.
- *Promote in-person Green House Calls and virtual energy efficiency kits to residents through websites, newsletters, social media, ads, etc.
- *Identify in-person offices site location (if applicable to host summer Green House Call program

Funding and Implementation Agreement for 2024-2027

Bay Area Regional Energy Network (BayREN) Program Implementation Plan Between Association of Bay Area Governments and Napa County Agreement #240224B

- A. Parties. The parties to this Agreement (Agreement) are the Association of Bay Area Governments (ABAG), whose address is 375 Beale Street, Suite 800, San Francisco, CA 94105, and Napa County (BayREN Member Agency), whose address is 1195 Third St. Suite 210 Napa, CA 94559.
- B. BayREN. The San Francisco Bay Area Regional Energy Network (BayREN) consists of ten (10) public entities:
 - a. Association of Bay Area Governments (ABAG)
 - b. Energy Council (StopWaste), on behalf of Alameda County jurisdictions
 - c. County of Contra Costa (Contra Costa)
 - d. County of Marin (Marin)
 - e. Napa County (Napa)
 - f. City and County of San Francisco (SF)
 - g. County of San Mateo (San Mateo)
 - h. County of Santa Clara (Santa Clara)
 - i. County of Solano (Solano)
 - j. Regional Climate Protection Authority (RCPA), on behalf of Sonoma County jurisdictions

These entities are referenced collectively or generically as "Members" or "Member Agencies". The members have entered into a Restated and Revised Memorandum of Understanding dated January 7, 2015, with regards to the San Francisco Bay Area Regional Energy Network ("Revised and Restated MOU").

- C. California Public Utilities Commission (CPUC) Decision. On July 3, 2023, the CPUC issued Decision (D.) 23-06-055 ("Portfolio Application Decision") approving, among other things, budget to fund BayREN's proposed implementation activities through December 31, 2027.
- D. ABAG-Pacific Gas and Electric Company (PG&E) Funding Agreement. ABAG, as the program administrator of BayREN, and Pacific Gas and Electric Company (PG&E), as BayREN's fiscal agent, have entered into a contract to provide funding for the implementation activities approved by CPUC D. 23-06-055. The agreement is denominated under PG&E's nomenclature as Change Order 3 to Contract Work Authorization (CWA) C21158, which provides funding from January 1, 2024, to December 31, 2027, issued under and pursuant to Master Service Agreement C657.²

¹ https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M512/K907/512907396.PDF; Page 93

² [URL to be added when agreement is available]

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 Bay Area Regional Energy Network (BayREN) Program Implementation Plan Terms and Conditions Page 2 of 31

E. ABAG-MTC Contract for Services. ABAG and the Metropolitan Transportation Commission (MTC) entered into a Contract for Services under which MTC provides administrative and program services to ABAG. Effective July 1, 2017, the staffs of ABAG and MTC were consolidated. MTC staff now serve both the ABAG and the MTC. As such, all interactions between ABAG and BayREN Member Agency contained within this Agreement, shall be conducted by MTC staff on behalf of ABAG;

Terms and Conditions

1. Definitions.

- (a) "Allocated Budget" means the funds that are allocated to BayREN Member Agency for implementing the Assigned SOW in this Agreement as may be modified from time to time under this Agreement.
- (b) "Assigned Scope of Work (SOW)" means the tasks and requirements of the PIP that are assigned to BayREN Member Agency through this Agreement as may be modified from time to time as allowed under this Agreement.
- (c) "BayREN Administrator" means the Member Agency that has been elected by the Coordinating Circle to provide overall BayREN administration.
- (d) "BayREN Member Agency" means the counterparty to this agreement.
- (e) "Coordinating Circle" means a group comprised of one voting representative from each Member Agency. The Coordinating Circle supervises all subprogram activities and may take action by a majority vote of those present at a meeting.
- (f) "County Lead" or "ABAG Lead" means the voting representative from a Member Agency that serves on the Coordinating Circle.
- (g) "Incentives" means the funds available to pay property owners or contractors upon successful completion of an approved energy efficiency project that meets the requirements of the PIP.
- (h) "Member Agency" means any of the ten public entities that are signatories to the Revised and Restated MOU.
- (i) "PIP" means Program Implementation Plan and is also referred to as an Implementation Plan, or "IP".
- (j) "Program Circle" means a group of individuals serving as a committee to provide feedback and coordinate activities for the subprogram.
- (k) "Program Lead" means the individual that has been elected by the Coordinating Circle to lead a specific BayREN subprogram. Each Program Lead generally supervises Program Circle.
- (l) "Revolving Loans" means funds available as loans to property owners to be used to pay for approved energy efficiency retrofits, and then repaid to ABAG to make subsequent loans pursuant to the PIP.
- (m) "Steward" means the individual elected by the Program Circle that channels tensions within the subprogram.

- (n) "Tensions" mean anything that a Member perceives as preventing the program(s) from moving forward.
- 2. PIP Implementation. All Members, including BayREN Member Agency, agree that the primary purpose of this Agreement is to successfully implement the PIP that the coordinated and collaborative process set forth in the Restated and Revised MOU, executed by all BayREN Members in 2015, is the agreed upon means for the Members to do so and that strategic management of the implementation is a critical part of the approach.
- (a) The Members, including BayREN Member Agency, have agreed on the initial overall assignment of tasks and requirements of the PIP, and the allocation of the associated funding, to individual Members including BayREN Member Agency, set forth in Attachment 1 BayREN Portfolio Budget.
- (b) The Members, including BayREN Member Agency, have agreed on the initial assignment of tasks and requirements for individual programs in all the SOWs, and the allocation of the associated funding, to individual Members. BayREN Member Agency has been assigned tasks, requirements, and budgets for a particular program. An attachment describing the corresponding scope of work and budget is attached to this Agreement and numbered as follows:
 - (1) Attachment 1A Portfolio Administration Scope of Work and Budget,
 - (2) Attachment 1B Single Family Scope of Work and Budget,
 - (3) Attachment 1C Green Labeling Scope of Work and Budget,
 - (4) Attachment 1D Multifamily Scope of Work and Budget,
 - (5) Attachment 1E BayREN Business Scope of Work and Budget,
 - (6) Attachment 1F BayREN Refrigerant Replacement Services Scope of Work and Budget,
 - (7) Attachment 1G Integrated Energy Services Scope of Work and Budget,
 - (8) Attachment 1H Targeted Decarbonization Services Scope of Work and Budget,
 - (9) Attachment 1I Water Upgrades Save Scope of Work and Budget,
 - (10) Attachment 1J Climate Careers Scope of Work and Budget,
 - (11) Attachment 1K Codes and Standards Scope of Work and Budget,
- (c) The maximum hourly rates for each labor category for BayREN Member Agency's employees performing under this Agreement are set forth in Attachment 2 Maximum Billing Rates. BayREN Member Agency may invoice for the actual employee hours expended in performing under this Agreement at an hourly rate up to the maximum rate.
- (d) BayREN Member Agency acknowledges that:
 - (1) Other MEMBERS, except ABAG, are third party beneficiaries of this Agreement;
 - (2) ABAG and each of the other MEMBERS will enter into an agreement comparable to this Agreement whereby each other MEMBER, including ABAG, will accept the initial assignment of tasks and requirements of the PIP and the associated allocation of funding set forth in

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 Bay Area Regional Energy Network (BayREN) Program Implementation Plan Terms and Conditions Page 4 of 31

Attachment 1 – BayREN Portfolio Budget and Attachment 1A through Attachment 1K, if any, and

- (e) BayREN Member Agency is a signatory to the Restated and Revised MOU. BayREN Member Agency intends to participate in the activities conducted under the Restated and Revised MOU throughout the term of this Agreement.
- 3. Maximum Budget and Allocated Budget.

The Allocated Budget for BayREN Member Agency is one million fifty-six thousand seven hundred seventy dollars (\$1,056,770), as described in Attachment 1 – BayREN Portfolio Budget and contingent upon annual approval of the ABAG Budget and Work Program.

BayREN Member Agency may, with prior written approval from BayREN Administrator, shift budget among program and subprogram totals within the same calendar year, so long as the contract total remains unchanged.

- 4. Reimbursement Process.
- (a) ABAG will reimburse BayREN Member Agency based on time expended in implementing the SOWs. The amount of the reimbursement will be based on the invoices submitted by BayREN Member Agency. BayREN Member Agency will not charge, and ABAG will not pay, any additional sums for work performed, except for allowed reimbursable costs.
- (b) BayREN Member Agency will be paid in arrears, based upon invoices submitted by BayREN Member Agency to ABAG. ABAG will promptly review BayREN Member Agency's invoices, approve or disapprove them for payment. ABAG will pay BayREN Member Agency within thirty (30) working days after receipt of the invoice. Each invoice shall specify the hourly rates for the individuals, or categories of individuals, as the case may be, that are listed in Attachment 2 Maximum Billing Rates. The invoice will separately itemize reimbursable costs and other allowable charges with supporting documentation attached. A written narrative describing the work performed and deliverables completed (if any), in an agreed upon format, shall accompany the invoice.

All invoices, supporting documentation, and narratives shall be submitted electronically to BayREN's SharePoint website³ and/or via email to ABAG at acctpay@bayareametro.gov.

5. Assurances and Warranties Regarding Implementation of PIP. BayREN Member Agency acknowledges that under the ABAG-PG&E Funding Agreement, ABAG provided PG&E certain assurances and warranties regarding implementation of the PIP and that such assurance and warranties rest upon the actions of individual Members' implementation of their assigned tasks and requirements. BayREN Member Agency acknowledges that ABAG entered into the ABAG-PG&E Funding Agreement and this Agreement and that each of the Members entered into an

³ https://bayareametro.sharepoint.com/sites/bayren/SitePages/BayREN-Invoices.aspx

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 Bay Area Regional Energy Network (BayREN) Program Implementation Plan Terms and Conditions Page 5 of 31

agreement comparable to this Agreement in reliance on BayREN Member Agency's representations and warranties.

- (a) BayREN Member Agency represents and warrants to each of the other Members, including ABAG, that it will implement, or cause to be implemented, the SOWs in conformity with the relevant CPUC Decisions and all applicable Federal, State, and local statutes, regulations and administrative decisions, rulings and guidelines.
- (b) BayREN Member Agency warrants to each of the other Members, including ABAG, that it will implement, or cause to be implemented, the SOW with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the SOW is implemented so as to ensure that the services performed are correct and appropriate for the purposes contemplated in this Agreement and related specifications.
- 6. Infringement Protection. BayREN Member Agency represents to each of the other Members, including ABAG, that the material to be prepared under this Agreement will not infringe upon the copyright, patent or license, or otherwise violate the proprietary rights, including trade secret rights, of any person or entity. BayREN Member Agency agrees to indemnify and hold each of the other Members, the CPUC and PG&E (for the purposes of this section only, Indemnitees) harmless from and against any and all liabilities, costs and damages arising out of any such infringement, and from any suit, demand or claim made against Indemnitees alleging any such infringement or violation. In addition to the foregoing, if there is such a suit, demand or claim, BayREN Member Agency agrees, as soon as possible, to either procure for the affected Indemnitee(s) the right to continue using the material, replace the material with non-infringing material or modify it so it becomes noninfringing; provided, however that the replaced or modified material shall be equal to that contracted for hereunder and satisfactory to the affected Indemnitee(s). BayREN Member Agency further agrees to pay any judgment or reasonable settlement offer resulting from a suit, demand or claim.
- 7. Indemnification. All Members, including BayREN Member Agency, acknowledge that under the ABAG-PG&E Funding Agreement ABAG has agreed, on behalf of the Members, to indemnify, hold harmless and defend the CPUC and PG&E. In recognition of this obligation, BayREN Member Agency shall indemnify, hold harmless and defend ABAG, the CPUC, PG&E and their respective members, affiliates, subsidiaries, parent company, commissioners, officers, managers, directors, agents, and employees (for the purposes of this section only, Indemnitees), from and against all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise), which arise from or are in any way connected with any:
- (a) injury to or death of persons
- (b) injury to property;

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 Bay Area Regional Energy Network (BayREN) Program Implementation Plan Terms and Conditions Page 6 of 31

- (c) violation of local, state, or federal common law, statute or regulation, including but not limited to environmental laws or regulations;
- (d) strict liability imposed by any law or regulation;

so long as such injury, violation, or strict liability (as set forth in subsections (a) - (d) above) arises from BayREN Member Agency's performance of, or failure to perform, this Agreement, however caused excepting only such loss, damage, cost, expense, liability, strict liability, or violation of law or regulation that is caused by the sole negligence or willful misconduct of the Indemnitees.

- 8. Term and Termination. This Agreement commences on January 1, 2024, and terminates effective December 31, 2027, or the date the ABAG-PG&E Funding Agreement is terminated, whichever occurs earlier.
- 9. Records/Audit. BayREN Member Agency shall keep complete and accurate books and records of all financial aspects of its relationship with ABAG in accordance with generally-accepted accounting principles. BayREN Member Agency shall permit authorized representatives of ABAG and/or PG&E or the CPUC and its agents, to inspect, copy, and audit all data and records of BayREN Member Agency relating to its performance of services under this Agreement. BayREN Member Agency shall maintain all such data and records in accordance with the requirement of the ABAG-PG&E Funding Agreement.
- 10. Data to be Furnished by ABAG. All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials ("ABAG Data") made available to BayREN Member Agency by ABAG for use by BayREN Member Agency in the performance of its services under this Agreement shall remain the property of ABAG and shall be returned to ABAG at the completion or termination of this Agreement. No license to such ABAG Data, outside of the Scope of Work of the Project, is conferred or implied by BayREN Member Agency's use or possession of such ABAG Data.
- 11. Headings. The descriptive headings used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of its provisions.
- 12. Governing Law. This Agreement will be construed and enforced in accordance with the laws of the State of California.
- 13. Severability. Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 Bay Area Regional Energy Network (BayREN) Program Implementation Plan Terms and Conditions Page 7 of 31

IN WITNESS WHEREOF, BayREN Member Agency has duly executed this Agreement, or caused it to be duly executed, and ABAG has duly executed this Agreement, or caused it to be duly executed.

ASSOCIATION OF BAY AREA GOVERNMENTS	NAPA COUNTY, A Political Subdivision of the State of California		
	By		
Andrew B. Fremier,	BELIA RAMOS, Chair		
Metropolitan Transportation Commission	Board of Supervisors		
Executive Director, Acting Pursuant to the	Napa County		
Contract for Services dated May 30, 2017			

APPROVED AS TO FORM	APPROVED BY THE NAPA	ATTEST: NEHA HOSKINS
Office of County Counsel	COUNTY	Clerk of the Board of Supervisors
	BOARD OF SUPERVISORS	-
By: Chris R.Y. Apallas		
Deputy County Counsel	Date:	By:
	Processed By:	
Date: November 7, 2023	-	
DocNo. 103057 2		
	Deputy Clerk of the Board	

Attachment 1 – BayREN Portfolio Budget

Attachment	Subprogram	Budget Category	2024	2025	2026	2027	Contract Total
<u>1A</u>	-	Portfolio Administration	10,839	11,324	8,928	9,304	\$40,394
<u>1B</u>		Administration	5,642	5,821	5,284	5,446	\$22,192
		Implementation	-	-	-	-	-
	BayREN Single Family	Marketing	92,178	96,675	83,703	87,544	\$360,100
		Incentives	-	-	-	-	-
		Subtotal	97,820	102,496	88,987	92,990	\$382,292
		Administration	1,239	1,299	1,178	1,232	\$4,948
	BayREN Green Labeling	Implementation	-	-	-	-	-
<u>1C</u>		Marketing	17,215	18,083	15,434	16,140	\$66,872
	Labeling	Incentives	-	-	-	-	-
		Subtotal	18,454	19,382	16,612	17,372	\$71,820
		Administration	3,717	3,896	3,534	3,696	\$14,842
		Implementation	-	-	-	-	-
<u>1D</u>	BayREN Multifamily	Marketing	28,265	29,550	23,915	25,013	\$106,743
		Incentives	-	-	-	-	-
		Subtotal	31,982	33,446	27,449	28,709	\$121,585
		Administration	2,478	2,597	707	739	\$6,521
		Implementation	1	-	-	-	-
<u>1E</u>	BayREN Business	Marketing	19,511	20,475	17,936	18,759	\$76,681
		Incentives	1	-	-	-	-
		Subtotal	21,989	23,072	18,643	19,498	\$83,202
		Administration	2,478	2,597	707	739	\$6,521
	BayREN Business	Implementation	-	-	-	-	-
<u>1F</u>	Refrigerant	Marketing	19,511	20,475	5,381	5,628	\$50,995
	Replacement	Incentives	-	-	-	-	-
		Subtotal	21,989	23,072	6,088	6,367	\$57,516
		Administration	2,478	2,597	2,356	2,464	\$9,895
	DayDEN Integrated	Implementation	1,951	2,048	185	193	\$4,377
<u>1G</u>	BayREN Integrated Energy Services	Marketing	11,057	11,602	1,047	1,095	\$24,801
	Energy Services	Incentives	-	-	-	-	-
		Subtotal	15,486	16,247	3,588	3,752	\$39,073
		Administration	2,478	2,597	2,356	2,464	\$9,895
	BayREN Targeted Decarbonization Services	Implementation	1,951	2,048	185	193	\$4,377
<u>1H</u>		Marketing	11,057	11,602	1,047	1,095	\$24,801
		Incentives	-	-	-	-	-
		Subtotal	15,486	16,247	3,588	3,752	\$39,073
	BayREN Water Upgrades Save	Administration	1,064	1,124	1,178	1,232	\$4,598
		Implementation	5,379	5,700	5,979	6,253	\$23,311
<u>1I</u>		Marketing	-	-	-	-	-
	6 P B 2 m 6 5 % m 7 6	Incentives	-	-	-	-	-
		Subtotal	6,443	6,824	7,157	7,485	\$27,909
		Administration	2,478	2,597	2,356	2,464	\$9,895
	BayREN Codes & Standards	Implementation	36,773	38,700	20,851	21,808	\$118,132
<u>1J</u>		Marketing	-	-	-	-	-
		Incentives	-	-	-	-	-
		Subtotal	39,251	41,297	23,207	24,272	\$128,027
	BayREN Workforce Education & Training	Administration	1,239	1,299	1,178	1,232	\$4,948
		Implementation	-	-	-	-	-
<u>1K</u>		Marketing	15,304	16,043	14,460	15,126	\$60,933
		Incentives	-	-	-	-	-
		Subtotal	16,543	17,342	15,638	16,358	\$65,881
		Annual Total:	\$296,282	\$310,746	\$219,883	\$229,859	\$1,056,770

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1A - Portfolio Administration Page 9 of 31

Attachment 1A - Portfolio Administration Scope of Work

BayREN Member Agencies will provide services in their jurisdictions to support the BayREN portfolio. These tasks include participating in general coordination meetings and activities, performing contract management, invoicing, and reporting functions, and other activities that provide portfolio-level benefits and cannot be reasonably attributed to a single program.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Implementing BayREN communication strategies in BayREN Member Agency
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Managing the county's BayREN contract, budget and relationships with elected and appointed officials
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county
- Reviewing holacracy governance documents in advance of Coordinating Circle meetings in order to effectively participate in governance processes
- Participating in BayREN-wide committees, retreats, and other activities

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1B - BayREN Single Family Program Page 10 of 31

Attachment 1B - BayREN Single Family Program Scope of Work

The BayREN Single Family program focuses on homeowners and renters that are consistently underserved in ratepayer energy efficiency programs, including moderate-income single-family households, and households that primarily speak a language other than English. BayREN Member Agencies will provide services in their jurisdictions to support the BayREN Single Family program. These tasks include local outreach to single family residents (homeowners and renters); contractor recruitment, support and engagement and coordination with the BayREN Single Family Committee. Tasks below are based on local budget and capacity to deliver services.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1B - BayREN Single Family Program Page 11 of 31

Marketing & Outreach - Local Outreach for BayREN Member Agency

Purpose: Support the Single Family program at the county level. Role Accountabilities:

- Providing program support and information to potential and participating contractors active within the County, as mutually agreed upon by the Program Lead and County Representative
- Organizing local realtor and contractor networking event(s) to promote the BayREN Single Family Program
- Establishing partnerships with local organizations to promote the Single Family Program
- Conducting direct mail campaigns and obtain mortgage, refinance, or similar mailing list(s)
- Organize homeowner workshops to promote the Home+ Program and Participating Contractors
- Coordinate presentations to homeowner community groups, organizations, and/or employers
- Identifying homeowner case study/studies and presenting to the Coordinating Circle
- Creating and/or maintaining stakeholder partnerships such as local cities, Energy Watch programs, Community Choice Aggregators/Community Choice Energy, and Community Based Organizations to assist in outreach of the Program
- Printing of program collateral
- Collaborating with Home Energy Advisors by sending emails for lead generation
- Hosting program information on local website(s) and County social media platforms
- Providing Program Lead with local information, contacts and data that support and promote the Program
- Providing Program Lead information on all planned Program related events in the County
- Reporting on best and highest performing activities to the Single Family Coordinating Circle
- Reporting on any unsuccessful strategies to the Coordinating Circle
- Analyzing local Program performance to identify gaps and recommendations to Program Lead
- Coordinating with Rising Sun to identify not-yet-reached communities in the County
- Sharing with the Single Family Coordinating Circle Program marketing material developed by the County

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1C - BayREN Green Labeling Program Page 12 of 31

Attachment 1C - BayREN Green Labeling Program Scope of Work

BayREN's Green Labeling program enables market recognition of the value of a green home during real estate transactions and complements other market transformation strategies such as incentives and financing. BayREN Member Agency's role is to implement the Home Energy Score program, provide real estate sector education, coordinate County-level real estate engagement, and engagement and coordination with the BayREN Green Labeling Committee.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1C - BayREN Green Labeling Program Page 13 of 31

Marketing & Outreach - Local Outreach for BayREN Member Agency

Purpose: Support the Green Labeling program at the county level. Role Accountabilities:

- Participating in bi-monthly calls on program development and implementation
- Promoting and attending BayREN real estate trainings in BayREN Member Agency and/or adjacent counties to provide information on BayREN and build connections with local real estate professionals
- Promoting HES rebates through workshops, mailings, social media, or other outreach campaigns
- Maintaining and developing relationships with existing or potential HES Assessors
- Identifying local venues or homes for trainings and tours
- Maintaining and developing relationships with local real estate associations, presenting at realtor meetings, hosting realtor networking events
- Providing Program Lead with local information, contacts and data that support and promote the Program

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1D - BayREN Multifamily Program Page 14 of 31

Attachment 1D - BayREN Multifamily Program Scope of Work

The BayREN Multifamily program provides property owners and managers with customized technical assistance, measures specifically designed for the multifamily sector, benchmarking of multifamily sites (when appropriate), and incentives to help overcome sector barriers to energy efficiency. Each of the BayREN participating members, including BayREN Member Agency, will provide services in their jurisdictions to support the BayREN Multifamily program. These tasks include local outreach to recruit property owners, support to the consultant providing technical assistance services to local property owners, assistance with recruiting contractors for trainings, and coordination with the BayREN Multifamily Committee.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1D - BayREN Multifamily Program Page 15 of 31

Marketing & Outreach - Local Outreach for BayREN Member Agency

Purpose: Support the Multifamily program at the county level. Role Accountabilities:

- Recruiting property owners and contractors through local activities and events
- Ensuring outreach is done in all jurisdictions within the member county (towns, cities, unincorporated areas, etc.)
- Planning and organization of [X] local outreach events
- Coordinating with cities within the County, Energy Watch/Local Government Partnership, CCAs, Munis and other local programs
- Hosting program information on local website(s) and suggesting local media and social media outlets for program content
- Providing Program Lead with local information, contacts and data that support and promote the Program
- Gathering information needed for assembling workable, targeted multifamily property owner contact lists
- Reporting on best and highest performing activities to the Multifamily Circle
- Coordinating with local jurisdictions and industry associations to foster relationship-building between local municipal governments and multifamily property owners
- Supporting Program Lead with market analysis studies by providing outreach data requested
- Working with local jurisdictions to distribute case study content through available media (press releases, websites, newsletters, social media, etc.)
- Distributing program impact data to jurisdictions within the member county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1E - BayREN Commercial Program Page 16 of 31

Attachment 1E - BayREN Commercial Program Scope of Work

BayREN Business focuses on helping hard-to-reach businesses with reducing their utility costs through energy efficiency retrofits. Each of the BayREN participating members, including BayREN Member Agency, will provide services in their jurisdictions to support the BayREN Commercial program. These tasks include local outreach to recruit small-and-medium business owners, marketing support to the consultant providing technical assistance services to local business owners, assistance with recruiting workshop participants, and coordination with the BayREN Commercial Committee.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1E - BayREN Commercial Program Page 17 of 31

Marketing & Outreach - Local Outreach for BayREN Member Agency

Purpose: Support the Commercial program at the county level. Role Accountabilities:

- Aiding in the development of marketing strategies, messaging, creative, and collateral as needed
- Recruiting property owners, contractors, and business decision-makers through local activities and events
- Ensuring outreach is done in all jurisdictions within the member county (towns, cities and unincorporated areas)
- Facilitating introductions to local Chambers of Commerce, local merchant associations, etc.
- Planning and organizing at least one local outreach event, such as street campaigns, presentations to groups like Chambers of Commerce, outreach partnerships with Community Based Organizations, etc.
- Coordinating with towns, cities and unincorporated areas within the County, Energy Watch/Local Government Partnership, and other local programs
- Coordinating and partnering with department and agencies to uncover efficiencies in marketing, such as including a BayREN commercial flier with each newly issued Business License, etc.
- Providing Program Lead with local information, contacts and data that support and promote the Program
- Gathering and researching information, such as demographic and geographic characteristics to develop high-impact marketing lists and optimizing marketing campaign development and execution
- Reporting on best and highest performing activities to the Commercial Circle
- Coordinating with local jurisdictions on ways to select and recognize program participants publicly
- Supporting Program Lead with market analysis studies by providing outreach data requested
- Working with local jurisdictions to distribute case-study content through available media (press releases, websites, newsletters, etc.)

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1F - BayREN Refrigerant Replacement Program Page 18 of 31

Attachment 1F - BayREN Refrigerant Replacement Program Scope of Work

The BayREN Refrigerant Replacement (BRRR) Program will remove harmful Global Warming Potential (GWP) refrigerants from small and medium businesses by providing more affordable and more easily available options for food-service establishments to maintain, retrofit, or replace their refrigeration systems to reduce both refrigerant leakage and energy use. BayREN Business focuses on helping hard-to-reach businesses with reducing their utility costs through energy efficiency retrofits. Each of the BayREN participating members, including BayREN Member Agency, will provide services in their jurisdictions to support the BayREN Refrigerant Replacement program.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1F - BayREN Refrigerant Replacement Program Page 19 of 31

Marketing & Outreach - Local Outreach for BayREN Member Agency

Purpose: Support the BayREN Refrigerant Replacement program at the county level. Role Accountabilities:

- Aiding in the development of marketing strategies, messaging, creative, and collateral as needed
- Recruiting property owners, contractors, and business decision-makers through local activities and events
- Ensuring outreach is done in all jurisdictions within the member county (towns, cities and unincorporated areas)
- Facilitating introductions to local Chambers of Commerce, local merchant associations, etc.
- Planning and organizing at least one local outreach event, such as street campaigns, presentations to groups like Chambers of Commerce, outreach partnerships with Community Based Organizations, etc.
- Coordinating with towns, cities and unincorporated areas within the County, Energy Watch/Local Government Partnership, and other local programs
- Coordinating and partnering with department and agencies to uncover efficiencies in marketing, such as including a BayREN commercial flier with each newly issued Business License, etc.
- Providing Program Lead with local information, contacts and data that support and promote the Program
- Gathering and researching information, such as demographic and geographic characteristics to develop high-impact marketing lists and optimizing marketing campaign development and execution
- Reporting on best and highest performing activities to the Commercial Coordinating Circle
- Coordinating with local jurisdictions on ways to select and recognize program participants publicly
- Supporting Program Lead with market analysis studies by providing outreach data requested
- Working with local jurisdictions to distribute case-study content through available media (press releases, websites, newsletters, etc.)

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1G - BayREN Integrated Energy Services Program Page 20 of 31

Attachment 1G - BayREN Integrated Energy Services Program Scope of Work

The BayREN Integrated Energy Services (IES) program focuses on overcoming silos in program offerings related to energy-related improvements to public buildings. The program includes an Energy Concierge to assist local government staff with finding and accessing technical and financial assistance, and an Energy Roadmapping service that helps local governments develop comprehensive and actionable paths forward for improving their facilities. Each BayREN participating member will provide services in their jurisdictions to support the BayREN Integrated Energy Services Program. This work includes conducting outreach to city and county staff; providing support for local government staff participating in the program; coordinating with Community Choice Aggregators (CCAs), Local Government Partnerships (LGPs) and others; and engaging with the Integrated Energy Services Committee and the Coordinating Circle.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1G - BayREN Integrated Energy Services Program Page 21 of 31

Implementation – Local Implementation for BayREN Member Agency

Purpose: Support the implementation of the Integrated Energy Services Program at the county level.

Role Accountabilities:

- Coordinating with Energy Watch/Local Government Partnership, local Community Choice Aggregator, and other local programs, and facilitating coordination between these offerings and the IES program
- Analyzing local program performance to identify gaps and recommendations to Program Lead
- Supporting local governments who are engaging in the Energy Roadmapping process

Marketing & Outreach – Local Outreach for BayREN Member Agency

Purpose: Encourage participation in Integrated Energy Services Program activities. Role Accountabilities:

- Aiding in the development of marketing strategies, messaging, and collateral as needed
- Promoting the Energy Concierge and Energy Roadmapping services to local government staff in all jurisdictions within the member county (towns, cities, and the unincorporated county)
- Hosting program information on local website(s) and suggesting local media and social media outlets for program content
- Creating and maintaining relationships with local government staff and organizations of staff members, and presenting about the program at meetings as appropriate
- Providing the Program Lead with local information, contacts and data that support and promote the program
- Sharing outreach and marketing materials, approaches, and outcomes with the IES Committee

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1H - BayREN Targeted Decarbonization Services Program Page 22 of 31

Attachment 1H - BayREN Targeted Decarbonization Services Program Scope of Work

The BayREN Targeted Decarbonization Services (TDS) Program supports local government efforts to carry out efficient decarbonization efforts in their buildings. The program includes a Decarbonization Showcase that works with real-world buildings to develop detailed case studies and appropriate metrics, as well as an Education and Financing service that educates local government staff about decarbonization-related building improvements and also addresses the cost of these improvements. County staff will provide services in their jurisdictions to support the Targeted Decarbonization Services Program. This work includes conducting outreach to city and county staff; providing support for local government staff participating in the program; coordinating with Community Choice Aggregators (CCAs), Local Government Partnerships (LGPs) and others; and engaging with the Targeted Decarbonization Services Committee.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

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Attachment 1H - BayREN Targeted Decarbonization Services Program
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<u>Implementation – Local implementation for BayREN Member Agency</u>

Purpose: Support the implementation of the Targeted Decarbonization Services Program at the county level.

Role Accountabilities:

- Coordinating with Energy Watch/Local Government Partnership, local Community Choice Aggregator, and other local programs, and facilitating coordination between these offerings and the TDS program
- Analyzing local program performance to identify gaps and recommendations to Program Lead
- Supporting local governments who have buildings participating in the Decarbonization Showcase

Marketing & Outreach – Local outreach for BayREN Member Agency

Purpose: Encourage participation in Targeted Decarbonization Services Program activities.

Role Accountabilities:

- Aiding in the development of marketing strategies, messaging, and collateral as needed
- Promoting the Energy Concierge and Energy Roadmapping services to local government staff in all jurisdictions within the member county (towns, cities, and the unincorporated county)
- Hosting program information on local website(s) and suggesting local media and social media outlets for program content
- Attending decarbonization program trainings to provide information on BayREN and build connections with local government staff
- Creating and maintaining relationships with local government staff and organizations of staff members, and presenting about the program at meetings as appropriate
- Providing the Program Lead with local information, contacts and data that support and promote the program
- Sharing outreach and marketing materials, approaches, and outcomes with the TDS Committee

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1I - BayREN Water Upgrades Save Program Page 24 of 31

Attachment 1I - BayREN Water Upgrades Save Program Scope of Work

BayREN's Water Upgrades Save program is an innovative on-bill financing program for home improvements related to conservation and energy efficiency for municipal water utilities and their customers. BayREN Member Agency will provide local partner water utility support for implementation and marketing in its capacity for Water Upgrades Save (WUSave). BayREN Member Agency will provide administrative tasks in its capacity as a County Lead.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1I - BayREN Water Upgrades Save Program Page 25 of 31

<u>Implementation – Local Implementation for BayREN Member Agency</u>

Purpose: Support the Water Upgrades Save Program at the county level. Role Accountabilities:

- Participating in monthly WUSave Committee phone meetings; one-to-two ad hoc
 WUSave planning and meetings as requested by Program Lead
- Assessing local water, climate, and housing policy for alignment with WUSave.
- Facilitating access to County Tax Assessor and other property data to support targeted marketing.
- Identifying local leaders/champions in water space.
- Participating in outreach activities, as requested, including: (1) Write letter of support to target utility's parent local government entity, (2) attend up to three enrollment meetings and present on the BayREN organization, and (3) recommend relevant local government and community leaders the program can approach for endorsement letters.
- Assisting in development of local multifamily property leads.
- Assisting in development of local commercial property leads.
- Serving as a local contact for WUSave utilities in the County for questions about BayREN
- Providing Program Lead, as requested, with data and information from existing
 local and regional water stakeholder groups and initiatives to assist with utility
 enrollment, such as local contacts at target utility city or county governments;
 multifamily housing associations; multifamily property management businesses;
 Home Owners Associations; community organizations; and water agency
 conservation efforts and stakeholder groups

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1J - BayREN Codes & Standards Program Page 26 of 31

Attachment 1J - BayREN Codes & Standards Program Scope of Work

The BayREN Member Agencies will provide services in their jurisdictions to support the BayREN Codes & Standards Program. These tasks include: coordination with the BayREN Codes and Standards Committee and Coordinating Circle; promotion of trainings, over the counter and electronic compliance improvement tools, regional forums, and reach code and zero net energy (ZNE) policy resources; and engagement with the Bay Area chapters of the International Code Council (ICC), City and County Board of Supervisors, local governments within their respective County and other key stakeholders (local contractor and building professional groups/associations, property owner and building operator associations, etc.). Tasks below are assigned based on local budget and capacity to deliver services.

Admin - County Lead for BayREN Member Agency

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1J - BayREN Codes & Standards Program Page 27 of 31

<u>Implementation – Local Outreach for BayREN Member Agency</u>

Purpose: Support the Codes & Standards program at the county level. Role Accountabilities:

- Attending and participating in Codes & Standards calls and meetings, including sharing information on relevant county projects, best practices, and similar codesrelated topics
- Providing Program Lead with local information, contacts and data to support the Program
- Recruiting local governments for hosting BayREN trainings, ensuring that all arrangements are made for training sessions, and providing feedback from participants
- Promoting quarterly Forum events, including providing email, phone, and other marketing assistance
- Supporting energy policy consideration and adoption at the local government level
- Providing local coordination and assistance for jurisdictions that may benefit from or be interested in BayREN compliance improvement tools
- Coordinating with local CCAs and other program implementers in BayREN Member Agency
- Analyzing local program performance to identify gaps and make recommendations to Program Lead

<u>Implementation – Reach Code & Policy Working Group</u>

Purpose: Develop and implement reach code and policy priorities for BayREN. Role Accountabilities:

- Participating in Reach Code & Policy Working Group calls and meetings
- Exploring, identifying, and supporting activities to encourage and enable adoption and implementation of local government reach codes and other local, regional and state energy policies.
- Providing support for local governments within [Member County] interested in adopting a reach code or energy policy
- Sharing information with the Working Group regarding local interests and activities related to reach codes and energy policies
- Contributing to the design of BayREN activities to support reach codes and energy policies

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1J - BayREN Codes & Standards Program Page 28 of 31

<u>Implementation – Forum Planning Committee</u>

Purpose: Prioritize, design, and deliver high quality regional meetings addressing the most pressing energy topics for local governments.

- Role Accountabilities:
 - Leading efforts to organize one of the Codes & Standards Forums
 - Securing speakers and content to present appropriate and compelling information
 - Providing input to ensure events are not duplicative of events hosted by other groups
 - Assisting with outreach as needed, including working with consultants to develop meeting-specific invitation lists for target audiences
 - Providing support and assistance at Forum events as needed
 - Developing and maintaining an energy topic list for future Forum events

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 1K - BayREN Workforce Education & Training Program Page 29 of 31

Attachment 1K - BayREN Workforce Education & Training Program Scope of Work

BayREN's Workforce Education & Training (WE&T) Program will build the energy efficiency workforce by targeting youth from low-income communities and set them on a path to earning family-sustaining wages.

Admin - County Lead for BayREN Member Agency

Purpose: Representing BayREN Member Agency context within BayREN. Role Accountabilities:

- Removing constraints within BayREN that limit its ability to collaborate and deliver effective programs
- Seeking to understand Tensions conveyed by any of BayREN Member Agency stakeholders applicable to the BayREN programs, and discerning those appropriate to channel into Coordinating Circle for processing
- Sharing the perspective of BayREN Member Agency stakeholders
- Communicating with BayREN Member Agency stakeholders about BayREN programs and activities
- Sharing progress, performance, and strategic data and information with the Coordinating Circle
- Coordinating with local PG&E energy efficiency programs, applicable CCA/CCE programs, and other BayREN Member Agency programs.
- Establishing that member has been selected by its county to act on its behalf
- Ensuring that member has expertise and experience in energy-related project management and implementation
- Ensuring invoices and reporting are submitted to Program Administrator in a timely manner
- Developing and reviewing program performance, and program and pilot recommendations
- Reviewing and authorizing program changes
- Implementing BayREN communication strategies in BayREN Member Agency
- Developing specific goals for BayREN Member Agency in line with the BayREN Business Plan, including strategies for managing and operating BayREN efforts more effectively and leveraging other programs within the county

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Marketing & Outreach - Local Outreach for BayREN Member Agency

Purpose: Support the Workforce Education & Training Program at the county level. Role Accountabilities:

- Participating in quarterly calls on workforce education, development and implementation.
- Identifying potential externship opportunities for Climate Careers youth within the county as well as long-term placements for green jobs.
- Promoting Climate Careers summer job opportunities to other county stakeholders such as CBOs, schools, workforce development departments, colleges, etc.
- Promoting in-person Green House Calls and virtual energy efficiency kits to residents through websites, newsletters, social media, ads.
- Promoting Green House Calls through mailers for targeted residents with appropriate county logos and partnership acknowledgement.
- Identify in-person offices site location (if applicable) to host summer Green House Call program

ABAG/ Napa County Funding and Implementation Agreement for 2024-2027 BayREN Program Implementation Plan Attachment 2 – Maximum Billing Rates Page 31 of 31

Attachment 2 – Maximum Billing Rates Napa County January 1, 2024 to December 31, 2027

Organization	Classification	Not to Exceed Billing Rate (\$/hr)
Napa County	Director of Planning, Building, & Environmental Services (PBES)	\$200.00
Napa County	PBES - Natural Resources Division Manager	\$125.00
Napa County	Planner II/III	\$95.00
Napa County	Planner I/II	\$90.00
Napa County	Staff Intern/Fellow	\$35.00

^{***} These are maximum billing rates. Actual fully loaded rates including salary, benefits and overhead will be used to bill staff time.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1877

TO: Board of Supervisors

FROM: Steven Lederer, Public Works Director

REPORT BY: Steven Lederer, Public Works Director

SUBJECT: Adoption of a Resolution in support the Vision Zero Bike and Pedestrian Safety Plan

RECOMMENDATION

Director of Public Works requests adoption of a Resolution in the support of the Napa Valley Transportation Authority's (NVTA) "NVTA Vision Zero Plan."

EXECUTIVE SUMMARY

On October 18, 2023 the NVTA Board adopted a "Vision Zero Plan." National best practices and policies support adoption of comprehensive safety action plans, such as Vision Zero plans. The Napa Valley Vision was adopted by NVTA to meet requirements for several competitive transportation funding programs as well as the One Bay Area Grant, Cycle 3 (OBAG-3) program. This plan will assist NVTA and the County towards the goal of zero serious and fatal roadway injuries countywide by 2030.

The NVTA Vision Zero Plan identifies and evaluates hot spots and systemic, risk factors on Napa Valley's roadway network using collision records between 2015 and 2021. There were 571 severe injuries or fatalities in this timeframe. The data was used to evaluate locations with frequent severe injury or fatality collisions and to identify where to implement safety enhancements based on injury risk factors. Community engagement efforts and equity-focused analysis supported the projects and strategies recommended in the plan. Projects reflect engineering and non-engineering countermeasures that are in line with the Safe System Approach that seeks to reduce speed, separate users in space and time, and provide redundancy using proven safety countermeasures. Complementary program, policy, and practice recommendations are also identified to infuse safety on all Napa Valley roadways.

While the Vision Zero plan does not itself come with funding, and this agenda item does not request any specific funding, the plan does help the County identify projects that could be accomplished, in the context of all the County's funding priorities. Staff request the Board adopt a resolution in support of the plan.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No Is it currently budgeted? No

Is it Mandatory or Discretionary? Discretionary

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1877		
Discretionary Justification:	The Plan provides a good framework for evaluating possible future projects and makes the County eligible for additional grant funds.			
Is the general fund affected?	No			
Future fiscal impact:	None, depending on future Board actions to potentially fund specific projects.			
Consequences if not approved:	The resolution will not be adopted.			
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit			

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action 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)(2).

BACKGROUND AND DISCUSSION

NVTA, with support from Fehr & Peers, prepared the NVTA Vision Zero Plan. The full plan can be found on the NVTA website.

The following describes the work completed as part of the Vision Zero effort.

Data Collection

The Fehr & Peers team completed a preliminary overview of collision records in both incorporated and unincorporated areas within the county. The collision data included injury reported collisions between 2015 and 2021, available through the Transportation Injury Mapping System (TIMS) reports from the Statewide Integrated Traffic Records System (SWITRS) but excludes collisions that cause property damage only and no injuries. For the timeframe in Napa Valley, there were a total of 4,651 injury collisions, of which 571 were fatal or severe injury collisions. High-level trends include:

- Fatal and severe injury collisions for vehicle-only and pedestrian collisions have remained similar year-overyear, even during the pandemic. There was a slight decrease in bicycle-related collisions in 2021.
- Different modes have different times where collisions are most prevalent.
- o Pedestrian collisions are more prevalent during weekdays.
- o Bicycle collisions are more prevalent during weekends.
- o Total injury vehicle collisions were more evenly spread across the week.
- o Vehicle collisions involving fatalities and severe injuries are more prevalent during weekends.
- Community input indicated that roadway safety is a top priority, and behavioral as well as physical roadway changes can be improved.
- Seasonal Farmworkers and the Unhoused are community members that are often underserved in data reports. Multidisciplinary coordination and programs and policies should be updated to institutionalize outreach to understand their roadway and safety concerns.

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Alongside the collision data, community input, stakeholder input, equity data sources, interactive map responses, intersection control types, roadway characteristics, lighting availability, and more were reviewed to provide a robust understanding of safety patterns and concerns throughout the Valley.

Focus Areas

Based on the systemic analysis, ten profiles were identified that emphasize trends in collision history when overlaid with roadway context. Combined, these ten profiles represent 76% of all collisions and 79% of collisions involving fatal and severe injuries in Napa Valley during the study period. The Plan seeks remedies to address these trends where they have occurred and mitigation opportunities to address risk factors to eliminate future collisions. These focus areas include:

- 1. Unsafe Speeds on Non-Urban Thoroughfares
- 2. Driving Under the Influence (DUI)
- **Broadside Collisions** 3.
- 4. Hit Object Collisions
- 5. Nighttime Collisions Along Major Roadways
- 6. Pedestrians Hit in Crosswalks at Intersections
- 7. Pedestrians Hit Crossing Outside Crosswalks or Walking in Road
- 8. Bicycle Collisions at Intersections
- 9. Highway Gateways
- 10. Collisions along Highways Serving as Main Streets

Countermeasures

The Plan pairs the data-driven collision analysis with proven countermeasures. Each focus area includes a toolbox of the five elements within the Safe Systems Approach: Safe Roads, Safe Road Users, Safe Speeds, Post-Crash Care, and Safe Vehicles. More information on the toolbox is included in Appendix A of the Plan.

Projects

From the focus areas, ten representative projects were selected for further project development. Each project summary includes a description of the project, collision trends, systemic profiles that the project reflects, what mode of travel the project targets, and an estimated cost range. The ten projects include:

- American Canyon Road East from State Route 29 to Newell Drive 1.
- 2. Lincoln Avenue from State Route 128 to Silverado Trail, Calistoga

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- 3. State Route 128 from Cedar Street/Petrified Forest Road to Pine Street, Calistoga
- 4. Deer Park Road/Sanitarium Road, St. Heleena
- 5. Howell Mountain Road from White Cottage Road to Sunset Drive, Angwin
- Main Street Downtown St. Helena from Pratt Avenue to Charter Oak Avenue 6.
- 7. Trancas Street/Redwood Road from Dry Creek Road to the Napa River, City of Napa
- 8. Soscol Avenue from Trancas Street to Imola Avenue, City of Napa
- 9. Finnell Road from Yount Street to Vista Road, Town of Yountville
- 10. State Route 29/Madison Street, Town of Yountville

Action Plan

The Action Plan includes strategies that require partnerships and collaboration with local organizations. These safety practices may include periodically updating the plan to identify how funding decisions will be made to prioritize Safe System aligned projects.

The Action Plan identifies the party/parties responsible for leading and supporting each action. A timeline for implementation and performance metrics are included. Strategies identify how to provide technical assistance and capacity building for internal staff, elected officials, and the advocacy community to support the rollout of the Plan's projects and strategies, and ensure that projects supported by NVTA are audited for consistency with the Safe System Approach.

Engagement

The project team assembled two working groups for participation in the development of the plan. Both met three times over the course of the plan period.

The engagement plan developed at the onset of the project identified goals, roles and responsibilities for both working groups. The Technical Advisory Working Group (TAWG) was made up of public works, planning, law enforcement/public safety. The Stakeholder Working Group (SWG) included elected officials, communitybased organizations, health organizations, school districts, and advocacy groups such as Slow Down Napa and the Napa County Bicycle Coalition.

Community Engagement included a survey, both online and on paper, to gauge the attitude of Napa Valley residents on a variety of safety issues. The survey included 22 questions, and was available from April 20th, 2023 to June 30th, 2023 in both English and Spanish. In total, 585 responses were collected from residents of the member agencies and unincorporated areas within Napa County.

NVTA staff also provided regular Vision Zero Plan updates to the NVTA Board and Committees to provide opportunities for public participation in the planning process. The meetings attended included:

Jurisdiction Advisory Committees

• City of Napa Bicycle and Pedestrian Advisory Commission (BPAC)

- o 12/8/22 Overview of Napa Valley Vision Zero Plan
- o 4/13/23 Vision Zero Plan Progress Update
- o 8/23 Vision Zero Plan Progress Update
- City of Calistoga Active Transportation Advisory Committee (ATAC)
- o 4/5/23 Vision Zero Plan Progress Update
- City of American Canyon Open Space Active Transportation and Sustainability Commission (OSATS)
- o 8/2/23 Vision Zero Plan Presentation and Progress Update

NVTA Advisory Committees

- NVTA Active Transportation Advisory Committee (ATAC)
- o 9/26/22 Plan Introduction/Kick off
- o 11/28/22 Ad Hoc-Vision Zero Stakeholder Representative selection
- o 1/23/23 Vision Zero Plan Progress Update
- o 5/22/23 Vision Zero Plan Progress Update
- o 9/25/23 Draft Vision Zero Plan
- NVTA Citizens Advisory Committee (CAC)
- o 7/7/22 Vision Zero Plan introduction
- o 1/11/23 Vision Zero Plan Progress Update
- o 3/1/23 Vision Zero Plan Progress Update
- o 5/3/23 Vision Zero Plan Progress Update
- o 7/12/23 Vision Zero Plan Progress Update
- NVTA Technical Advisory Committee
- o 9/1/22 Vision Zero Plan Introduction
- o 1/5/23 Ad Hoc Stakeholder Group Representatives selection
- o 3/2/23 Vision Zero Plan Progress Update
- o 5/4/23 Vision Zero Plan Progress Update
- o 7/13/23 Vision Zero Plan Progress Update
- o 9/7/23 Draft Vision Zero Plan
- NVTA Board
- o 10/11/22 Work Authorization-Initial presentation

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o 1/11/23 Ad Hoc-Vision Zero Stakeholder Representative selection

- o 3/8/23 Vision Zero Progress Update
- o 7/19/23 Vision Zero Progress Update

Next Steps

With an adopted Vision Zero Plan, NVTA will begin to institutionalize the safety practices identified in the Plan for internal NVTA focus. NVTA staff will also begin coordination with member agencies to implement the safety strategies identified in the plan. These safety practices include, but are not limited to, integrating safety improvements into routine maintenance and capital projects, supporting member agencies in reviewing and updating policies and standards with a Safe System focus, and prioritizing projects that create redundancy in the roadway network to reduce fatal and severe injury crash risk. Once the Plan is adopted, NVTA staff will review the current funding, technical assistance needs, project plans, policies, and programs to identify where there is not a Vision Zero and Safe System alignment, and where adjustments are needed to meet the adopted Vision Zero resolution. County staff work regularly with NVTA staff on these efforts.

NVTA intends to create a traffic safety committee. While specific members have not yet been identified, this group is expected to include NVTA staff, member agency staff (including the County), emergency personnel, and key stakeholders.

NAPA COUNTY RESOLUTION NO. _____

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, SUPPORTING THE NAPA VALLEY TRANSPORTATION AUTHORITY VISION ZERO PLAN

WHEREAS, according to injury collision data collected between 2015-2021 from the Statewide Integrated Traffic Records System, there were a total of 4,651 injury collisions in Napa County, of which 571 were serious injury or fatal collisions; and

WHEREAS, in the past seven years, 18 percent of collisions involving pedestrians and bicyclists resulted in serious injuries or fatalities; and

WHEREAS, it is a priority in Napa County to reduce transportation-related deaths and serious injuries as much as practical; and

WHEREAS, Vision Zero is a transportation system strategy designed to eliminate fatal and severe injury crashes on roadways while increasing safe, healthy and equitable mobility for all; and

WHEREAS, on October 18, 2023, the Napa Valley Transportation Authority (NVTA) approved the draft NVTA Vision Zero Plan; and

WHEREAS, the Vision Zero Plan will create opportunities to invite meaningful input from the community, including residents that are disproportionately burdened by traffic collisions, and historically have been underserved within transportation systems; and

WHEREAS, NVTA's adoption of its Vision Zero Plan meets the safety plan requirements of the One Bay Area Grant, Cycle 3, Program and other competitive grant programs for which the County and its partner agencies may seek funding;

NOW, THEREFORE, **BE IT RESOLVED** by the Napa County Board of Supervisors, that the Board supports NVTA's adoption of its Vision Zero Plan and the goal of eliminating traffic collisions resulting in serious injuries or fatalities in Napa County by 2030.

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PL Doc. No. 103850

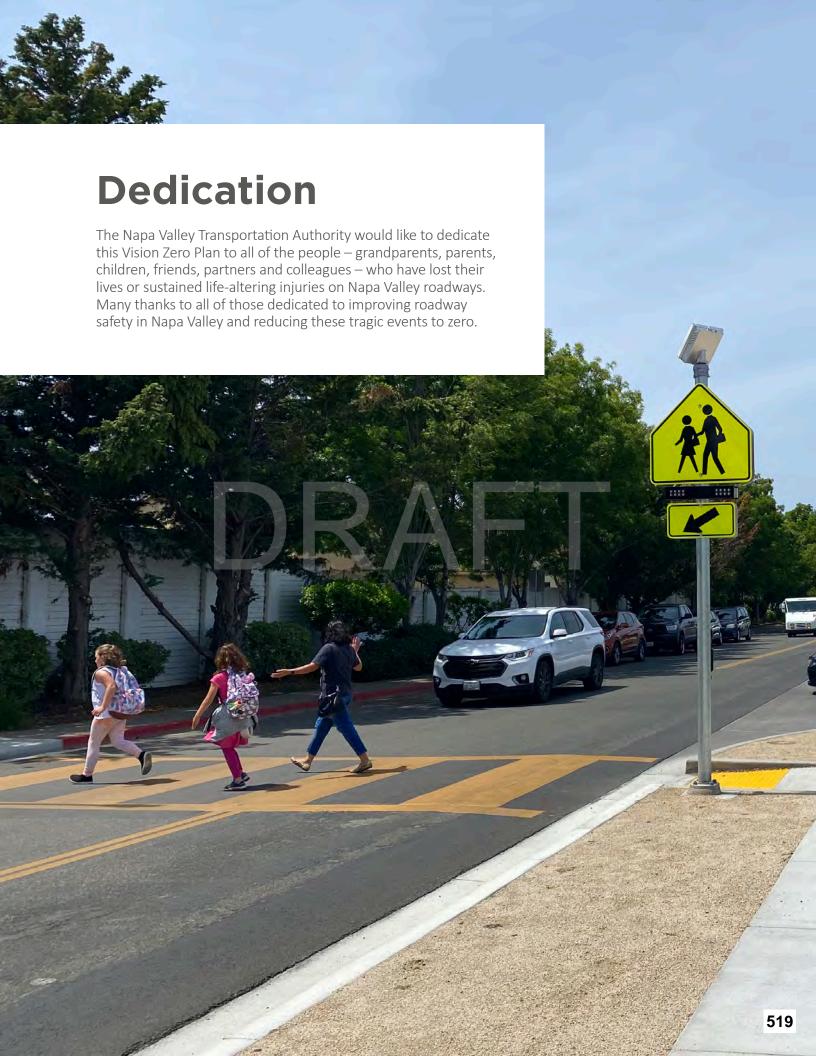
THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED

by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the 5th day of December, 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				OS, Chair of the
	Board of Supervisors			
APPROVED AS TO FORM Office of County Counsel		APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS		ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: <u>Thomas C. Zeleny</u> Chief Deputy County Counsel		Date: Processed By:		Ву:
Date: November PL Doc. No. 103		Deputy Clerk of the Boar	rd	

RICA VISION ZERO

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A Message from NVTA

As one of the foremost wine regions in the world, Napa Valley attracts visitors year-round. The Valley's vibrant character is heavily influenced by the agriculture, tourism and hospitality industries. It is home to a diverse community of residents and a thriving workforce that support and value the local character that is Napa Valley. Our transportation's safety is key to sustaining our way of life.

Whether it's embarking on a scenic a bike tour along the Vine Trail, walking to the nearest bus stop to get to work or school, or taking a stroll through the neighborhood or a local downtown, every resident, worker, and visitor should be able to safely move around Napa Valley. Similar to many places in the country, Napa Valley continued to experience fatal and severe injury collisions through the pandemic even though vehicle travel had declined during that time. Safety of all roadway users in Napa Valley is among our highest priorities. This is why, in 2023, Napa Valley's governments are embracing Vision Zero as a traffic safety strategy with the goal of eliminating traffic fatalities and serious injuries, and to continue to prioritize roadway safety as a primary objective.

Applying the Safe System Approach as the guiding paradigm to address roadway safety, commits NVTA and its member agencies to create a system that builds and reinforces multiple layers of protection that can minimize the severity of crashes and ultimately prevent fatalities altogether. This holistic and comprehensive approach to safety is woven into all aspects of the Napa Valley Vision Zero Action Plan.

This Action Plan is the culmination of collaboration between NVTA, Napa County, the City of Napa, the City of American Canyon, the town of Yountville, the City of St. Helena, the City of Calistoga, law enforcement agencies, key stakeholders and Napa Valley community members. We are proud to share this Vision Zero Action Plan, and look to a future where tragedies are prevented on our roadways.

NVTA, and its member jurisdiction leaders are committed to making our roads safe as we work together to make Napa Valley a model of Vision Zero excellence and a place where all can move freely and safely on our roadways.

Sincerely,

Liz Alessio, Napa Valley Transportation Authority



Acknowlegdements

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Calistoga Joint Unified School District

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RISIOA VISION ZERO

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RISIOA VISION ZERO

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1

Introduction, Background, and Vision

Napa Valley Transportation Authority and its member agencies are committed to prioritizing transportation safety and decreasing the number of traffic related deaths and serious injuries on roadways throughout the region.

This Vision Zero Action Plan builds on existing and ongoing efforts by NVTA and its member agencies by proactively identifying and evaluating hot spots and systemic risk factors. The Action Plan identifies proven countermeasures that can be implemented through roadway design changes, as well as non-infrastructure programmatic efforts through key partnerships with safety stakeholders.

An Action Plan is prepared to ensure that efforts made towards zero deaths and serious injuries are evaluated and updated on a yearly basis to track the progress that has been made. This Plan applies the Safe System Approach, an international, national, and state best practice framework, as the foundation for improving roadway safety

Safe System Approach

Crashes can irreversibly change the course of human lives, touching victims, their families and loved ones, and society as a whole. Through collective action on the part of all roadway system stakeholders—from system operators and vehicle manufacturers to law enforcement and everyday users—we can move to a Safe System Approach that anticipates human mistakes, with the goal of eliminating fatal and serious injuries for all road users.

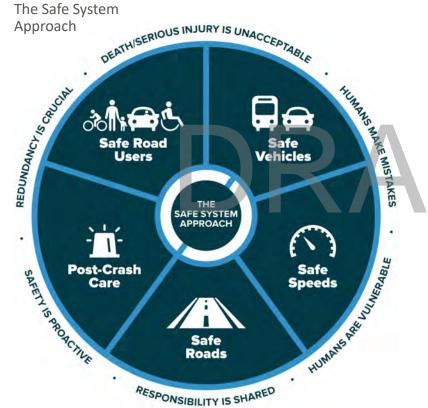
A Safe System acknowledges the vulnerability of the human body—in terms of the amount of kinetic energy transfer a body can withstand—when designing and operating a transportation network to minimize serious consequences of crashes. According to the World Health Organization, the goal of a Safe System is to ensure that if crashes occur, they "do not result in serious human injury." The Safe System Approach to road safety started internationally as part of the

¹ World Health Organization (2011). Decade of Action for Road Safety 2011-2020. Retrieved from https://www.who.int/roadsafety/decade of action/plan/plan en.pdf, p. 9

Vision Zero proclamation that no one should be killed or seriously injured on the road system.²³

As shown in **Figure 1**, the Safe System Approach is founded on the principle that people make mistakes and that the road system should be adapted to anticipate and accommodate human mistakes and the physiological and psychological limitations of humans.⁴

Figure 1



Countries that have adopted the Safe System Approach have had significant success reducing highway fatalities, with reductions in fatalities between 50% and 70%.⁵ The Safe System Approach is the foundation for the National Safety Strategy released by USDOT in 2022. Caltrans has also adopted both a Safe System Approach and a Vision Zero goal as part of their Strategic Highway Safety Plan. The Institute of Transportation Engineers (ITE) and the Road to Zero Coalition's Safe Systems Explanation and Framework articulate that to anticipate human mistakes, a Safe System seeks to:

- » Separate users in a physical space (e.g., sidewalks, dedicated bicycle facilities)
- » Separate users in time (e.g., pedestrian scramble, dedicated signal turn phases)
- » Alert users to potential hazards
- Accommodate human injury tolerance through interventions that reduce speed or impact force

Creating a Safe System means shifting a major share of the responsibility from road users to those who design the road transport system. "Individual road users have the responsibility to abide by laws and regulations"6 and do so by exhibiting due care and proper behavior on the transportation system. While road users are responsible for their own behavior, this is a shared responsibility with those who design, operate, and maintain the transportation network: including the automotive industry, law enforcement, elected officials, and government bodies. In a Safe System, roadway system designers and operators take on the highest level of ethical responsibility.

² Johansson, R. (2009). Vision Zero-Implementing a policy for traffic safety. Safety Science, 47, 826-831

³ Tingvall, C., & Haworth, N. (1999). An Ethical Approach to Safety and Mobility. Paper presented at the 6th ITE International Conference Road Safety and Traffic Enforcement. 6-7 September 1999, Melbourne, Australia

⁴ Belin, M.-Å., Tillgren, P., & Vedung, E. (2012). Vision Zero- a road safety policy innovation. International Journal of Injury Control and Safety Promotion, 19, 171-179.

⁵ World Resources Institute (2018). Sustainable and Safe: A Vision and Guidance for Zero Road Deaths. Retrieved from https://www.wri.org/publication/sustainable-and-safe-vision-and-guidance-zero-road-deaths

⁶ World Health Organization (2011). Decade of Action for Road Safety 2011-2020. Retrieved from https://www.who.int/roadsafety/decade of action/plan/plan en.pdf

ITE Safe System Framework: Focus on Safe Speeds

The ITE Safe System framework provides important context for the focus on safe speeds within a Safe System Approach. For all road users, especially those who walk or bike, speed is a determining factor in survivability. As shown in **Figure 2**, increased speed narrows sight line visibility of vulnerable users, and a human's chance of surviving after being struck by a vehicle increases from 10% at 40 miles per hour to 50% at 30 miles per hour to 90% at 20 miles per hour.

Reducing speed in the presence of vulnerable users is a key Safe System strategy. Approaches include:

- » Physical roadway designs (reduced width, horizontal alignment) to limit speeds
- » Traffic calming treatments that induce slower speeds
- » Traffic signal timing that minimizes high speed flow
- » Traditional or automated enforcement (currently not legal in California) that discourages speeding

Figure 2
Pedestrian Crash Survival as a Factor of Vehicle Speed



About Napa Valley

Napa Valley is in the nine-county Bay Area, north of the San Pablo Bay. The county's economy is largely dependent on manufacturing, agriculture, tourism, and hospitality, which shapes the demographics of the workers who live in and travel to Napa Valley. The county is navigable via several highways, including State Route (SR) 121, SR 29, and SR 128. Its land uses are primarily rural and agricultural, with cities dispersed along the highways from north to south.

Napa Valley has an estimated population of 139,000 residents. The population is 67 percent white, 8 percent Asian, 2 percent black, 13 percent other, and 35 percent of the population identifies as Hispanic or Latino. Napa Valley is comprised of five cities and towns, from south to north — City of American Canyon, City of Napa, Town of Yountville, City of St. Helena, and City of Calistoga — in addition to regions, unincorporated areas, and parklands.

Napa Valley's economy is largely centered around agriculture and its wine industry. Nearly half of all employment in the Valley depends on the wine industry. Alongside wine, Napa Valley has a thriving hospitality and retail sector which contributes to the local economy and provides employment opportunities. Nearly four million people visit Napa each year, accounting for \$2.3 billion in direct spending to the local economy. The hospitality sector continues to grow annually.

The region's nature as a world-class destination for tourism and viticulture presents unique challenges, including heavy traffic flow on weekends and holidays, as well as a high incidence rate for driving under the influence (DUI). The unincorporated areas of the region are crisscrossed by rural, often winding two-lane highways that carry high volumes of fastmoving regional traffic, and which generally lack facilities people walking and biking.

City of American Canyon has a population of 21,700 and is located at the northern point of the San Pablo Bay and has easy access to Marin County and San Francisco. Like most of the Valley, American Canyon has a booming wine industry and also has a number of park spaces. The City's main arteries include State Route 29 and American Canyon Road, which are both wide, highspeed arterials that present safety concerns.

City of Napa serves as the County seat and is the largest city in Napa Valley with a population of nearly 78,000 people. The City features a vibrant downtown area, and is known for its scenic riverfront, historic architecture, and hospitality sector. As the largest urban center in the region, the City of Napa has the largest share of recorded collisions within the region, and features numerous roadways with large traffic volumes and safety concerns.

Town of Yountville has a population of 3,300 and is known for its dining establishments, boutique hotels, and vineyards. The Town hosts annual events such as the Taste of Yountville Food and Wine Festival. State Route 128 transitions from a controlled-access freeway to a surface roadway in Yountville, and the interface between the highway and the Town has been a hotspot for safety concerns.

City of St. Helena, with a population of 5,500, is renowned for its wineries, resorts, and dining experiences. The City provides ample opportunities for outdoor activities such as hiking, biking, and hot air balloon rides. It is bisected by State Route 128, which serves as both the City's main commercial strip and a heavily-trafficked regional corridor.

City of Calistoga is located at the northern end of the county and has a population of 5,200. It is known for its natural hot springs, mud baths, and wellness retreats. State Routes 128 and 29 both run through the heart of the City on local two-lane streets, and the mix of local uses and regiona traffic on these roadways present safety challenges.



Existing Plans and Programs

NVTA and its member agencies have made investments in roadway safety through project and program implementation, traffic education and enforcement, pursuing funding through grant applications, roadway maintenance, and adoption of planning documents that identify transportation safety priorities and future projects.

Connected and safe roadways provide opportunities for the community to be more active and take alternative modes of transportation. Planning documents that have specific safety-related goals, policies, projects, and recommendations were reviewed to set the foundation for this Vision Zero Action Plan. Existing programs that promote biking and walking through Napa Valley are also identified in this section.

City of Napa Local Roadway Safety Plan (2022)

City of Napa LRSP uses data-driven analysis to identify the primary road safety concerns in the City and project recommendations to reduce the likelihood and severity of collisions. Collision data collected from 2016 to 2020 was used to identify prevalent collision characteristics and locations which have caused disproportionate numbers of collisions. The plan identifies seven emphasis areas based on the primary collision factors, including intersection safety, rear-end collisions, broadsides, and pedestrian safety. Additionally, a High Injury Network was identified to visualize priority corridors and intersections. This Vision Zero Action Plan uses the High Injury Network from the City's LRSP as a guide to align the regional Vision Zero recommendations with local planning. Education, enforcement, and engineering countermeasures are compiled for each emphasized collision type and a list of viable safety projects which would be eligible for state or federal funding opportunities.

Napa County Local Roadway Safety Plan (2022)

The Napa County LRSP qualitatively and quantitatively evaluated collisions to identify the leading risk factors for collisions in the region and a list of priority projects to improve roadway safety across the unincorporated areas of the County. Additionally, the plan identifies funding opportunities which can be used by the County to ultimately implement the recommendations in the plan. The LRSP provides recommendations and guidance to reduce the likelihood of fatalities and serious injuries along County roadways. The plan identifies the ten intersections and ten corridors with the highest weighted collision severity for the evaluation period from 2016 to 2018. Various projects were evaluated for their benefit to cost ratio and the six highest ranked projects were identified for the County to pursue in upcoming grant and funding cycles through state and federal opportunities.

American Canyon Local Roadway Safety Plan (2022)

The American Canyon LRSP uses systemic safety analysis to identify the primary safety concerns and project recommendations to reduce the likelihood and severity of collisions in American Canyon. Collision data collected from 2016 to 2020 were used to identify prevalent collision characteristics and locations where there have been a disproportionate numbers of collisions. The plan identifies seven emphasis areas based on the primary collision factors, including intersection safety, rear-end collisions, broadsides, and pedestrian safety.

NVTA Community-Based Transportation Plan (2018)

NVTA's Community-Based Transportation Plan (CBTP) considers the mobility needs of historically underserved communities, including low-income and otherwise disadvantaged communities. Using both region and county-specific criteria to identify Equity Priority Communities, the Plan engaged with Community Based Organizations and neighborhood associations with emphasis on representing low-income, disabled, and senior populations. Through a robust engagement process, the CBTP evaluated the highest priority concerns for the identified communities and developed a needs assessment for each area with project recommendations to meet those needs.

State Route 29 Comprehensive Multimodal Corridor Plan (2020)

The SR 29 Comprehensive Multimodal Corridor Plan evaluates the current conditions of the highway as it relates to traffic operations, crash risk, multimodal connectivity, and reliability and travel times for transit. The plan identifies multimodal improvements on SR 29 to be implemented over the next 20 years which address concerns about safe crossings, active transportation accommodations, and transit.

Advancing Mobility 2045 (2021)

The Countywide Transportation Plan showcases NVTA's shared transportation vision for 2045. The plan focuses on implementation efforts to relieve congestion, improve traffic safety, and create more active transportation infrastructure. NVTA hopes to provide more access to transit through providing more reliable and frequent bus service and improving the existing roadway network.

Napa Countywide Pedestrian Master Plan (2016)

The Napa Countywide Pedestrian Master Plan provides guidance for infrastructure, policy, programs, and development standards to support safety and connectivity for people walking in Napa Valley. Four goals are identified to guide the recommendations throughout, with specific policies that are aimed to achieve these goals. Walking trends, collisions involving pedestrians, and community input were all analyzed to develop a list of priority projects and identify the countywide pedestrian network. Each city and town was evaluated individually to develop recommendations for their unique contexts and needs, and a countermeasure toolbox was provided for implementation in priority areas.

Napa Countywide Bicycle Master Plan (2019)

The Napa Countywide Bicycle Master Plan provides guidance for infrastructure, policy, programs, and development standards to support safety and connectivity for people biking in Napa Valley. A data-driven analysis, paired with extensive community engagement, was used to develop four goals and policies that are aimed to achieve these goals. Evaluating corridors and intersections based on level of traffic stress, collisions involving a bicycle, and community input were all reviewed to develop a list of priority projects and identify the countywide bicycle network. Each city and town was evaluated individually to develop recommendations for their unique contexts and needs, and a countermeasure toolbox was provided for implementation in priority areas.

Equity Considerations

Equity considerations are an important component of analyzing and improving roadway safety through the Safe System Approach. Low-income communities and communities of color have experienced decades of disinvestment and neglect in transportation and are disproportionately impacted by roadway safety issues.

Geographic Indicators

As part of the analysis for this Plan, common indicators used to identify disadvantaged communities in the region and state were explored to identify potential focus areas for equity.

Equity Priority Communities

The Metropolitan Transportation Commission (MTC), the metropolitan planning organization (MPO) for the nine-county Bay Area region, designates a set of census tracts as Equity Priority Communities (EPCs). These are areas it considers historically underserved and in need of special investment to attain equitable access to transportation, housing, and services. EPCs are defined using a variety of demographic and socioeconomic factors, including race and ethnicity, household income, linguistic isolation, access to a vehicle, housing affordability, and numbers of seniors and people with disabilities, among others. Tracts that are identified as FPCs are further divided into three classes based on their scoring – "high," "higher," and "highest."

As shown in **Figure 4**, Napa County has only five census tracts identified as EPCs, the second fewest among the nine Bay Area Counties – only Marin has fewer with four. One tract consists of the campus of Napa State Hospital and is classified as "highest." Of the remaining four, three are in the City of Napa and one consists of the entirety of the City of Calistoga; all four of these tracts are classed as "high." As such, Napa County has the fewest EPC census tracts amongst the nine counties classified as "higher" or "highest."

Healthy Places Index

The Healthy Places Index is a socioeconomic index that uses 25 community characteristics including economic, educational, transportation, housing, environmental, healthcare access, and other indicators to define a composite score that rates an area's health from a holistic perspective. The California Transportation Commission (CTC) defines criteria for disadvantaged communities. It qualifies areas that the Healthy Places Index scores in the bottom 25th percentile or below (with lower scores being worse) as disadvantaged communities.

No tract in Napa County scores lower than the 40th percentile on the HPI, and all but five tracts in the City of Napa score above the state average. As such, no tract in Napa County meets the State's criteria for disadvantaged communities based on HPI.

CalEnviroScreen

CalEnviroScreen is an environmental justice index developed by the California Office of Environmental Health Hazard Assessment (OEHHA). The index, now in its 4.0 edition, aggregates a variety of metrics to identify communities that are disproportionately vulnerable to pollution and environmental burdens. The CTC qualifies areas that CalEnviroScreen scores in the 75th percentile or above (with higher scores being worse, unlike the HPI) as disadvantaged communities.

No tract in Napa County scores higher than the 70th percentile on the latest edition of CalEnviroScreen, and all but eight tracts in the south of the County in or near the Cities of American Canyon and Napa scores above the state average. As such, no tract in Napa County meets the State's criteria for disadvantaged communities based on CalEnviroScreen.



Beyond Traditional Indicators

The indicators mentioned above do not capture the full story in Napa Valley. These metrics are reliant on Census data and other data sources that have a tendency to undercount populations without permanent addresses. As a result, these metrics likely do not accurately capture certain underserved populations within the region.

Seasonal Workers

Farmworkers and other seasonal workers are a pillar of Napa Valley's economy and communities, but are often undercounted in Census data and other data sources, and underserved and disadvantaged in the planning process. The safety analysis of this Plan includes focused examination of collision patterns near each of the three farmworker centers operated by the Napa County Housing Authority (NCHA) in order to draw focus on the safety needs of seasonal farmworkers in the region. However, true and lasting progress towards greater inclusion in the planning process and improvements in safety outcomes can only be achieved through long-term partnership and understanding, developed through robust outreach and engagement with seasonal worker communities. This Plan must be followed up with regular, ongoing outreach that meet these communities where they are and provide appropriate languages resources.

Homeless Individuals

The Bay Area as a whole faces a significant crisis surrounding housing affordability and homelessness. While the homelessness crisis is more pronounced in other counties in the Bay Area such as San Francisco and Alameda, there is nonetheless a need for Napa Valley to take the issue into consideration as part of this roadway safety planning process.

According to the Napa City-County Continuum of Care's Strategic Plan to Address Homelessness (2022), 464 people were identified as experiencing homelessness on a single night during the annual January Point-in-Time count on January 24, 2020. The report indicated that 65% of respondents were living unsheltered, and 98% resided in Napa or a neighboring County when they became homeless. However, it is important to note that this figure may likely be an undercount due to the difficulty of collecting accurate and complete data on homeless individuals, who likely also are undercounted in Census data and see underreporting in collisions they are involved in.

While addressing the root causes of homelessness may fall outside the realm of roadway safety, it still has a role to play in contributing to alleviating the crisis. For example, making policies around encampments and overnight RV parking with roadway safety as a priority, such as by designating safe areas that are away from areas with known hazards, such as high speeds or obstructed sight lines. Furthermore, continued coordination among the multidisciplinary team of stakeholders in roadway safety should reach out to homeless individuals and provide services in conjunction with addressing roadway safety concerns. It would benefit Napa Valley to institutionalize this practice so such outreach is done on a ongoing and regular basis.

Alternatives to Enforcement

Over the course of the stakeholder outreach for this Plan, stakeholders at local police departments and CHP highlighted that their current staffing levels limit their ability to conduct widespread traffic enforcement. This feedback is in line with regional and national trends and a consequent shift of police resources towards serious and violent crime. For example, San Francisco has seen traffic citations drop from an average of 74 a day in 2019 to 10 a day in the first half of 2022; its number of dedicated traffic officers has declined from 69 to 45 in the same period. Similarly, the City of Seattle has seen its dedicated traffic details eliminated since 2019, and traffic citations issued in Seattle are down 86% between 2019 and 2022. This decline in traffic enforcement also comes at the same time as a national reckoning over policing and policing reforms aimed to try to address issues such as racial profiling, abuse, and violence, many of which involve or start with traffic enforcement stops.

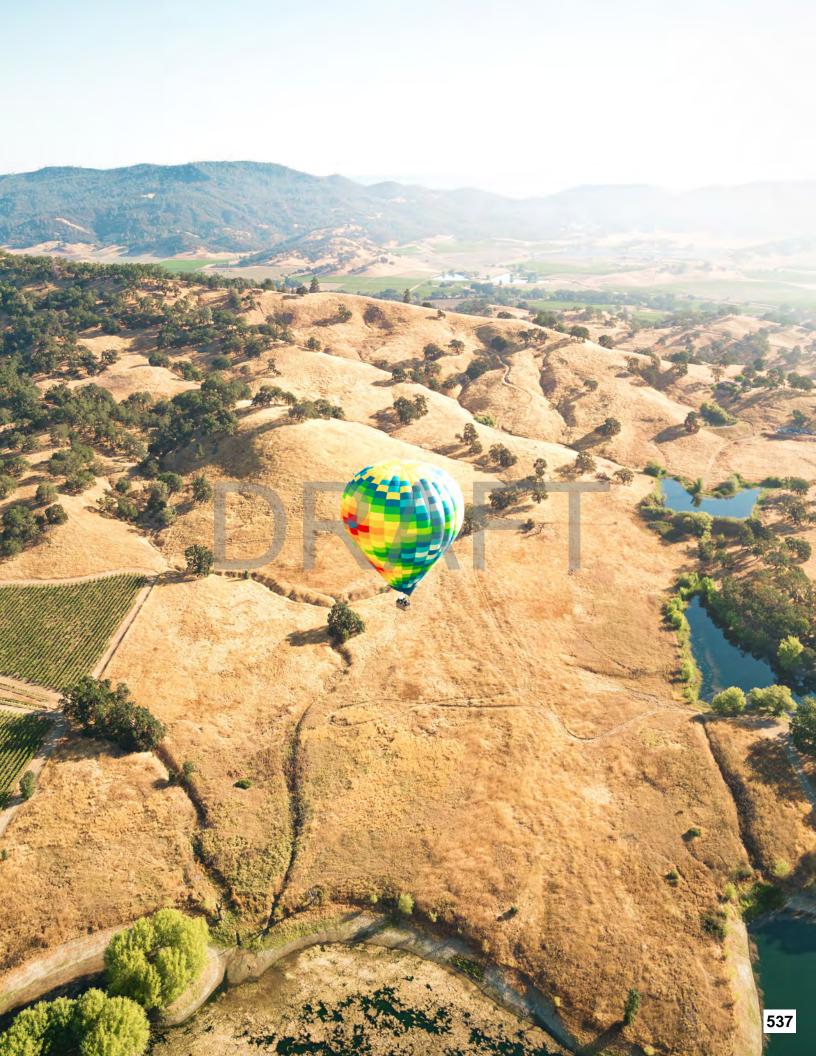
However, enforcement of traffic laws is nonetheless necessary and a vital component to the Safe System Approach. Enforcement is instrumental to ensuring that rules of the road are followed, that engineering countermeasures are effective and used as intended, and that all road users are reminded and educated to use the transportation system safely. In light of the present difficulties surrounding traditional enforcement, this Plan explores several alternatives that can complement it and ensure that these vital functions are being fulfilled

One prominent alternative is the use of automated red light and speed enforcement cameras, which have been deployed in several jurisdictions around the country. These cameras have had positive results in terms of their ability to reduce violations, crashes, injuries, and fatalities. Automated red light cameras are permitted in California, while automated speed enforcement cameras are not; however, both are included

for informational purposes in this Plan as non-engineering countermeasures, as strong evidence exists for both that they can reduce violations, crashes, injuries, and fatalities. While automated enforcement cameras are often politically unpopular and seen as revenue generators for municipal governments, they can be made more palatable by:

- » tying cameras to specific areas for enforcement, such as school zones and construction areas
- » removing financial incentives for vendors to issue fines – for example, paying the vendor a flat fee or on a per camera basis, as opposed to a per citation basis
- » instituting a progressive fine structure with different fine amounts for those of different income levels
- » maintaining transparency on the amount and use of program revenue and clearly message that revenue generation is not a purpose or goal of the program
- instituting the program as a pilot that is reevaluated and renewed after a predetermined period

Another alternative to traditional enforcement is the use of civilian staff to issue traffic citations. There is a move in several cities to use civilian staff to issue traffic citations. For example, Philadelphia's first public safety officers were sworn in in March, tasked with traffic duties and issuing citations which would allow sworn officers to be redirected towards serious crime. While not currently allowed in California, a bill currently in the Legislature would legalize such civilian forces for jurisdictions in the state currently exploring the option. For example, the City of Berkeley passed a measure in 2020 to shift traffic stop duties to a civilian staff, which remains moot until changes in state law; an unreleased report from the City of Los Angeles Department of Transportation also recommended that most traffic enforcement be conducted by civilians.



NVTA's vision statement and guiding principles were collaboratively developed with NVTA, member jurisdictions, and members from the Stakeholder and Technical Advisory Working Groups. A summary of the working group meetings and community engagement is in the following chapter.

Vision Statement

Napa Valley is committed to an equity-focused, data-driven effort to eliminate traffic deaths and severe injuries on our streets by 2030.

Guiding Principles

- » Safety is the highest priority. Motor vehicle collisions should not result in a fatality or serious injury on Napa Valley roadways. They are preventable and unacceptable incidents.
- » People make mistakes. Driver behavior will be taken into consideration for design, construction, operation, and continuous evaluation of roadways to determine the impact on vulnerable road users.
- » A data-driven approach. Ongoing evaluation should continue to identify where and why traffic collisions occur and prioritize projects and programs that eliminate fatal and severe injury collisions. NVTA will work with local jurisdictions to proactively and reactively make datadriven engineering decisions to manage roadways and reduce the severity of collisions.

- » Safety is a shared responsibility. Everyone is a key partner in roadway safety. We want to create a system where users, roadway designers, law enforcement, and post-crash care create redundancy to reinforce safety.
- » Transportation networks must be equitable. The transportation networks in Napa Valley must be equitable for all road users and serve all ages and abilities. Equity Priority Communities will be considered as projects are developed. New safety interventions will not worsen equity concerns, especially as it is related to enforcement.
- » Vision Zero will be accountable and transparent. Evaluation through an equity lens will be ongoing. NVTA strives to be transparent in its communications on roadway designs, prioritizing competing improvements, and use of limited resources needed to reduce data and severe collisions on Napa Valley roadways.

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2 Engaging the Community

NVTA has engaged with commmunity stakeholders throughout the development of the Vision Zero Action Plan to receive holistic perspectives from community members on the means for improving Napa Valley's road safety. The engagement process has sought insights from stakeholder groups and the community at large to ensure that the plan aligns with the goals of local jurisdications.

Stakeholder Groups

Two working groups were developed during the Plan's initiations: Technical Advisory Working Group (TAWG) and Stakeholder Working Group (SWG).

The TAWG was developed to give insights into the roadway safety concerns and priorities for the five member agencies and Napa County to identify their unique challenges to achieving safer roadways. Members of the TAWG included representatives from local jurisdictions, Police Departments, California Highway Patrol, Fire Departments, and the County.

The SWG was comprised of representatives of organizations, departments, or demographics which are significantly impacted by roadway safety, including school districts, active transportation advocates, and the farmworking community. Group members provided perspectives about the needs of the communities and the priorities that they have previously identified.

Both the TAWG and the SWG met three times to discuss the vision, goals, priorities, existing conditions, and collision risk profiles in Napa Valley. During the first meeting, groups discussed the initial collision data analysis and their understanding of potential causes for the primary collision profiles. Working group members shared information about ongoing safety related projects or policies taking place within their jurisdiction or by their organization During the second meeting, the groups reviewed the initial countermeasures identified for the collision profiles and discussed the effectiveness of the profiles in capturing the most significant challenges in Napa Valley. During the final meeting, groups reviewed and provided feedback on the draft Vision 7ero Action Plan.





Community Outreach

NVTA strategically engaged with the community to create multiple avenues for people to share their needs and priorities for roadway safety in the County. A combination of in-person events, presentations, and online access to project information provided a wide range of opportunities for people to provide feedback throughout the Plan's development.

The NVTA Project team attended community events to receive feedback on the needs and priorities of Napa Valley residents. These events included the following:

- » Napa Farmers Market Stand (June 4, 2023)
- » Earth Day Fair at the Napa Commons (April 23, 2023)
- » Bikefest (May 7, 2023)
- Bike to School or Work Day (May 18, 2023)

Community engagement emphasized access for Spanish speaking residents of the County, including Spanish Radio Station advertising and online advertisements. NVTA also engaged with the Napa Valley Farmworker Housing groups through six presentations to the group between June 19 and June 23, 2023.

Engagement was also facilitated through a project webpage which was advertised through social media targeted advertising, emails to subscribed residents, and local radio stations. The site provided information about the Vision Zero Plan and encouraged responses to an Attitudinal Survey and an interactive mapping site. Respondents were asked to highlight areas of traffic safety concern on the map, including issues like speeding, rolling through stop signs, poor street lighting, or visibility at intersections.

Committee Presentations

NVTA also gave outreach presentations to jurisdictional committees and relevant internal groups.

Jurisdiction Advisory Committees

City of Napa Bicycle and Pedestrian Advisory Commission (BPAC)

- » 12/8/22 Overview of Napa Valley Vision Zero Plan
- » 4/13/23 Vision Zero Plan Progress Update
- » 6/8/23 Vision Zero Plan Progress Update
- » City of Calistoga Active Transportation Advisory Committee (ATAC)
- » 4/5/23 Vision Zero Plan Progress Update

City of American Canyon Open Space Active Transportation and Sustainability Commission (OSATS)

» 8/2/23 Vision Zero Plan Presentation and Progress Update

NVTA Advisory Committees

NVTA Active Transportation Advisory Committee (ATAC)

- » 9/26/22 Plan Introduction/Kick off
- » 11/28/22 Ad Hoc-Vision Zero Stakeholder Representative selection
- » 1/23/23 Vision Zero Plan Progress Update
- » 5/22/23 Vision Zero Plan Progress Update

NVTA Citizens Advisory Committee (CAC)

- » 7/7/22 Vision Zero Plan introduction
- » 1/11/23 Vision Zero Plan Progress Update
- » 3/1/23 Vision Zero Plan Progress Update
- » 5/3/23 Vision Zero Plan Progress Update
- » 7/12/23 Vision Zero Plan Progress Update

NVTA Technical Advisory Committee

- » 9/1/22 Vision Zero Plan Introduction
- » 1/5/23 Ad Hoc Stakeholder Group Representatives selection
- » 3/2/23 Vision Zero Plan Progress Update
- » 5/4/23 Vision Zero Plan Progress Update
- » 7/13/23 Vision Zero Plan Progress Update

NVTA Board

- » 10/11/22 Work Authorization-Initial presentation
- » 1/11/23 Ad Hoc-Vision Zero Stakeholder Representative selection
- » 3/8/23 Vision Zero Progress Update
- » 7/19/23 Vision Zero Progress Update

Attitudinal Survey

NVTA distributed a survey, both online and on paper, to gauge the attitude of Napa Valley residents on a variety of safety issues. The survey included 22 questions, and was made available to residents from April 20th, 2023 until June 30th, 2023 in both English and Spanish. In total, 585 responses were collected from residents of the member

agencies and unincorporated areas within Napa County. **Appendix C** includes a full summary of the survey responses. The survey was publicized through inperson venues like Farmer's Markets and at the farmworker housing sites, and through advertisements in the Napa Register and KVON radio station.

Figure 5
Social Media Graphics Advertising the Survey



People Agree That Roadway Safety is a Top Priority

Overall, the survey results reflected Napa Valley residents' shared consensus that roadway safety is important, as shown in **Figure 6**. When asked if they supported the goal of eliminating traffic fatalities and serious injuries on roads and streets in Napa Valley, 76% strongly agreed and 21% agreed. In downtown areas or commercial corridors,

83% of responses agreed that space for people to walk, bike, and cross the street safely should be prioritized over on-street parking. Nearly all of the respondents – 96% – agreed or strongly agreed that safety should be the top priority when making decisions about road or street design.

Figure 6 Attitudinal Survey Results: People Agree That Roadway Safety is a Top Priority

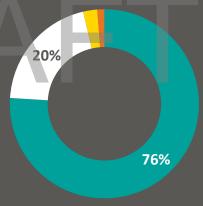


I support the goal of eliminating traffic fatalities and serious injuries on roads and streets in Napa Valley

21%



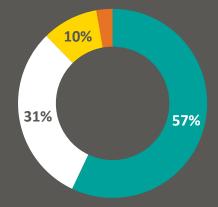


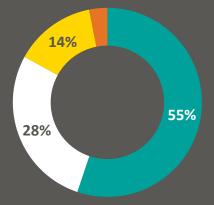


Intersection changes reducing the possibility of crashes should be prioritized over those reducing delay

76%



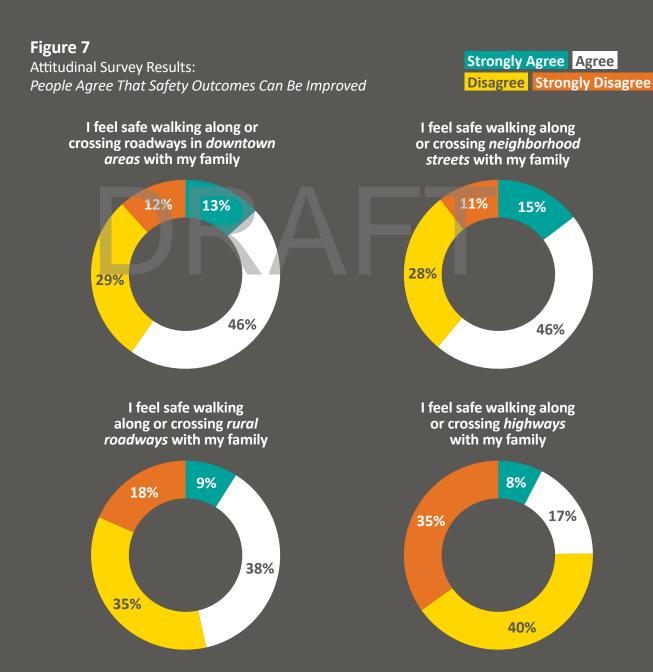




People Agree That Safety Outcomes Can Be Improved

As shown in **Figure 7**, the survey also reflects that residents see a need for roadway safety to improve in Napa Valley. When it came to respondents' experiences with safety in the county, about 60% feel safe walking along or crossing streets in Napa Valley's downtown areas and neighborhoods. Fewer than half

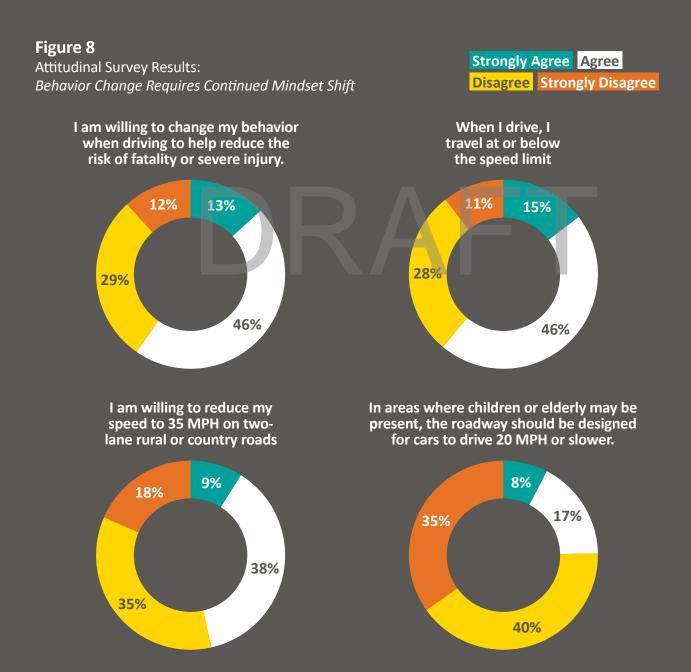
feel safe walking along or crossing rural or county roads, and less than 25% feel safe walking along or crossing the highways throughout Napa Valley.



Behavior Change Requires Continued Mindset Shift

Nearly all respondents – 94% – agreed that they were willing to change their behaviors to reduce safety risks. However, a smaller share are willing to commit to specific changes. For example, speeding continues to be pervasive on roadways around the region, and collision records indicate that speeding continues to

be a leading contributing factor tp crashes. However, a smaller share of respondents – 85% – agreed or strongly agreed that they observed speed limits, and an even smaller share – 71% – agreed or strongly agreed that they are willing to reduce their speed to 35 miles per hour on rural roads.



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Summary and Analysis of Safety Data

Chapter 2 of Caltrans' Local Roadway Safety Manual (LRSM) instructs safety practitioners to "consider a wide range of data sources to get an overall picture of the safety needs." To this end, this Vision Zero effort will be data-driven and synthesize findings from collison records alongside input from key stakeholders, a technical advisory group, and staff.

Collision records on roadways in Napa Valley* from 2015 to 2021 were investigated to describe historic collision trends and identify high-risk locations. This information acts as a primary resource for this Vision Zero effort, providing the underlying data to support key analyses.

The data-driven process for this Vision Zero process includes:

Examination of Collision Trends
 Review of collision statistics
 to evaluate when, where, and
 why collisions occur and who is
 involved.

- Development of a
 High-Injury Network
 Identification of roadways
 where most injury collisions
 are concentrated for targeted
 intervention
- Development of Collision
 Profiles of Emphasis using a combination of collision factors to identify the most prevalent collision types and contexts.
- Development of a
 Countermeasure Toolbox
 Identification of effective,
 nationally proven
 countermeasures applicable to
 different collision profiles
- Identification of Priority
 Project Locations
 Identification of locations suitable for project implementation
 based on collision density and community verification

The following section will present findings from the first of these stages of data analysis, identifying collision patterns and trends.

^{*} Throughout this document, "Napa Valley" will be used to denote the areas served by NVTA- that is, the entirety of Napa County, including all its incorporated and unincorporated areas. The City of Napa and the County of Napa will always be referred to in their long-form names to prevent any ambiguity.

A Note on the Data Source

This analysis utilizes data on injury collisions from 2015 through 2021 available through the Transportation Injury Mapping System (TIMS) as of November 2022. TIMS reports injury collisions from the Statewide Integrated Traffic Records System (SWITRS), but excludes collisions that cause property damage only (PDO) and no injuries.

Geographically, the data includes all collisions that occur within both incorporated and unincorporated areas of Napa County. The data excludes collisions that occur on limited-access roadways (i.e. freeways) but include collisions on all other roadways, including State highways and other Caltransmaintained roadways as well as privately-maintained roadways.

While collision databases like TIMS remain the best source of collision data, they have been found to have certain reporting biases, including:

- Collisions involving people walking, on bicycles, or on motorcycles are less likely to be reported than collisions with people driving
- Property damage only collisions are less likely to be reported compared to more severe collisions
- Younger victims are less likely to report collisions
- Alcohol-involved collisions may be underreported

Race, income, immigration status, and English proficiency may also impact reporting, but there is limited research on these factors.

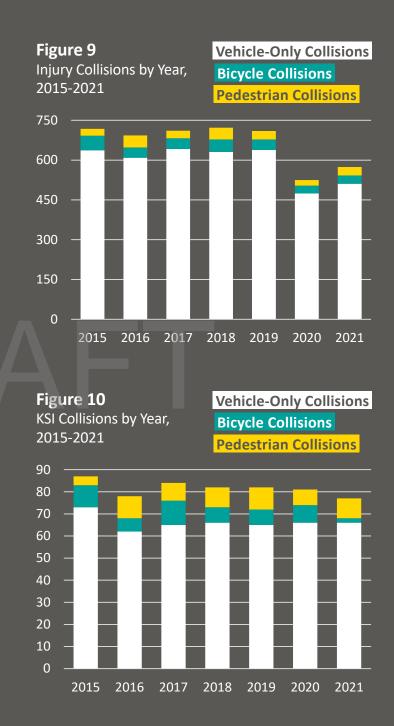
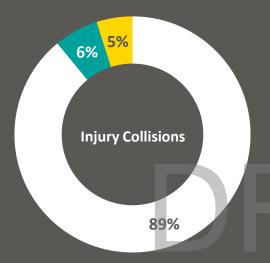


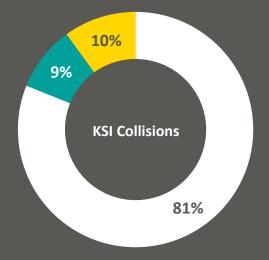
Figure 11 Collision Mode Share by Severity, 2015-2021

Vehicle-Only Collisions

Bicycle Collisions

Pedestrian Collisions





Collisions by Year and by Mode

The table below provides a summary of the number of collisions in Napa Valley by mode and severity within the dataset, which includes all collisions that result in injury or fatality. From 2015 to 2021, there were a total of 4,651 injury collisions, of which 571 were KSI collisions: collisions where someone was killed or severely injured.

Collision Summary	Total	KSI
Total	4,651	571
Bicycle	282	51
Pedestrian	229	57

Figures 9 and 10 show the temporal trends of collisions in Napa Valley. As shown, the annual number of overall collisions in Napa Valley remained steady through 2019 and, as shown, experienced a decrease in 2020 and 2021. The number of KSI collisions per year, however, has remained steady not just from 2015 to 2019, but through the years of the COVID-19 pandemic as well. This is in line with national trends during the pandemic where the annual number of KSI collisions has remained steady despite changes in travel patterns.

People walking or biking are particularly vulnerable in the event of a collision, as they lack the protection afforded to them by being inside a motor vehicle. As a result, collisions involving people walking or biking are more likely to result in injury and fatality. As shown in **Figure 11**, people walking and biking are involved in 11% of all injury collisions, but 18% of KSI collisions.

Collisions by Collision Type

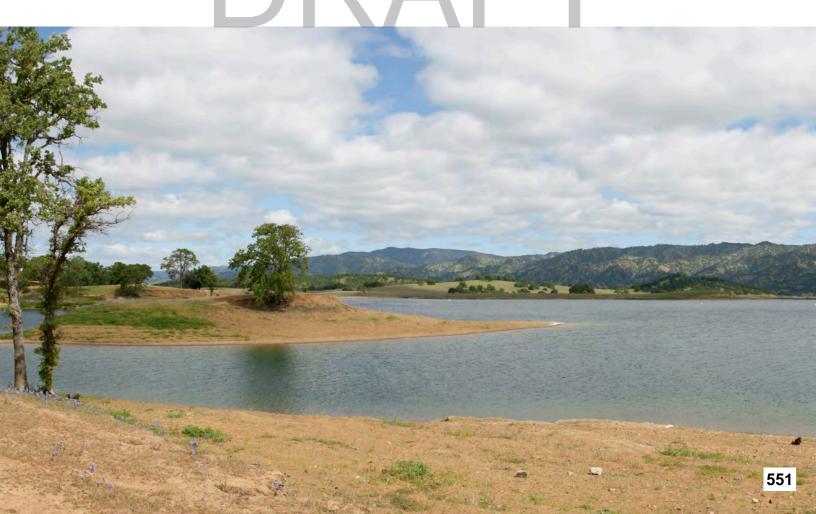
Figure 12 illustrates the share of collisions in the study period that fall into each collision type. As shown, the most common collision types across all collisions in Napa Valley are Rear-End collisions at 29%, Broadside collisions at 23%, and Hit Object collisions at 21%.

Taking a closer look at KSI collisions show a different breakdown percentage. Hit Object collisions are most common among KSI collisions at 31%, followed by Broadside collisions at 15%, and Head-On collisions at 13%. This further illustrates the disproportionate impact in severity that collision type can play. For example, while Rear-End collisions account for a large share of overall collisions, they are generally less likely to result in fatalities and severe injuries.

Collisions by Primary Collision Factor (PCF)

Figure 13 illustrates the share of collisions in the study period that are classified under each Primary Collision Factor (PCF). PCFs are cited by the responding officer and are based on that person's judgment of what contributed to the collision. It is important to note that PCFs do not include contextual information about the design aspects of the collision location that could have been primary or secondary contributors to a collision. In Napa Valley, the most common PCFs are Unsafe Speed at 32%, followed by Improper Turning at 20%, and Vehicle Right of Way Violation at 13%.

Taking a closer look at KSI collisions show a different PCF breakdown percentage. The most common PCFs for KSI collisions are Improper Turning at 28%, followed by Driving or Bicycling Under the Influence at 19%, and Unsafe Speed at 18%.



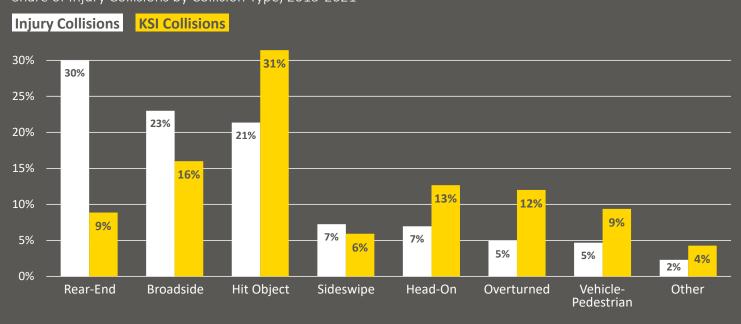
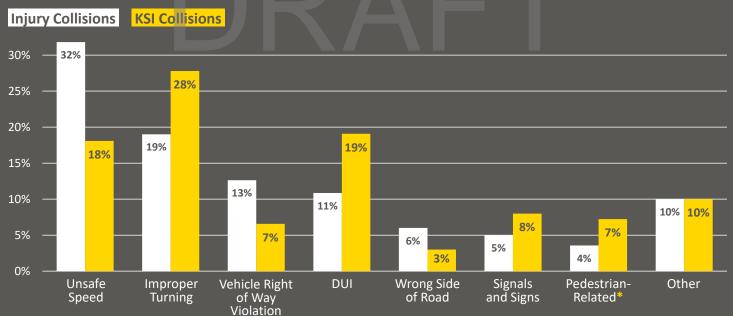


Figure 13Share of Injury Collisions by Primary Collision Factor (PCF), 2015-2021



* Note on Pedestrian PCF Categories

The "Pedestrian-Related" category shown here combines two PCF categories: Pedestrian Violation and Pedestrian Right of Way Violation. The former indicates that the pedestrian violated a rule of the road, such as crossing outside of a crosswalk, where the latter indicates the driver of a vehicle violated the pedestrian's right of way. The Pedestrian Violation category may be overrepresented due to a lack of clear information related to collision circumstances, and the increased likelihood that the pedestrian party may be unable to provide their side of the incident at the time of the collision. For this reason, we have elected to not show the distinction in these tallies, and instead show all pedestrian-related collisions in one single category.

Collisions by Lighting Conditions

Figure 14 illustrates the share of collisions in the study period that occur at night*. As shown, nighttime collisions are overrepresented among KSIs. Collisions that occur during nighttime also disproportionately affect people walking, with more than half of all pedestrian KSI collisions occurring at night. While most nighttime collisions occured where streetlights were present, the quality of the lighting can vary widely. Factors that may contribute to the quality of streetlights include lights being insufficiently bright, placed too widely apart, or poor quality of lighting for people walking on the sidewalk, as streetlights are often designed primarily for vehicles in travel lanes.

Driving Under the Influence (DUI)

Figure 15 illustrates the share of collisions of various types in the study period that involved at least one party driving under the influence (DUI). Drugs or alcohol increase the likelihood of increased crash severity. As shown, the number of DUI collisions are overrepresented amongst KSI collisions. While 12% of all injury collisions involve drugs or alcohol in Napa Valley, 23% of KSI collisions do.

These percentages reflect the portion of collisions involving one or more parties determined to be under the influence of drugs or alcohol. Driving under the influence may not always be listed as the primary collision factor even if a driver is found to be under the influence.

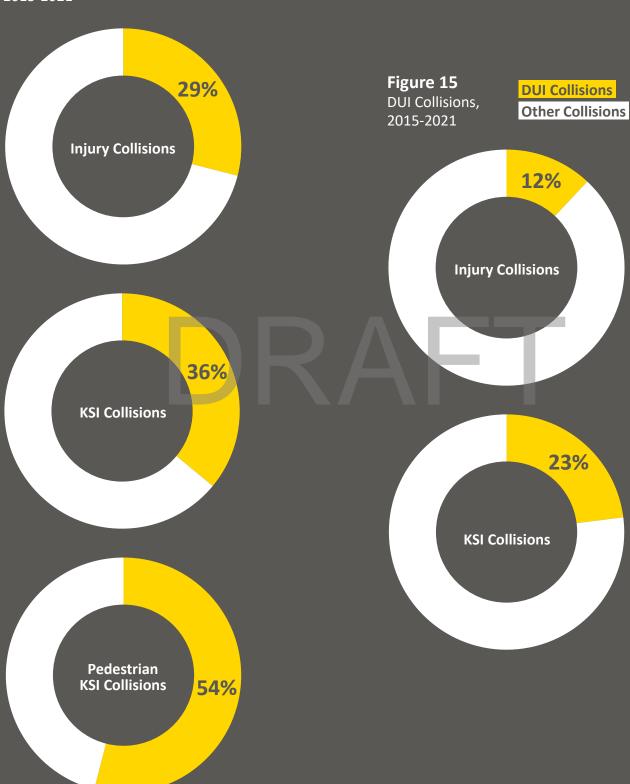


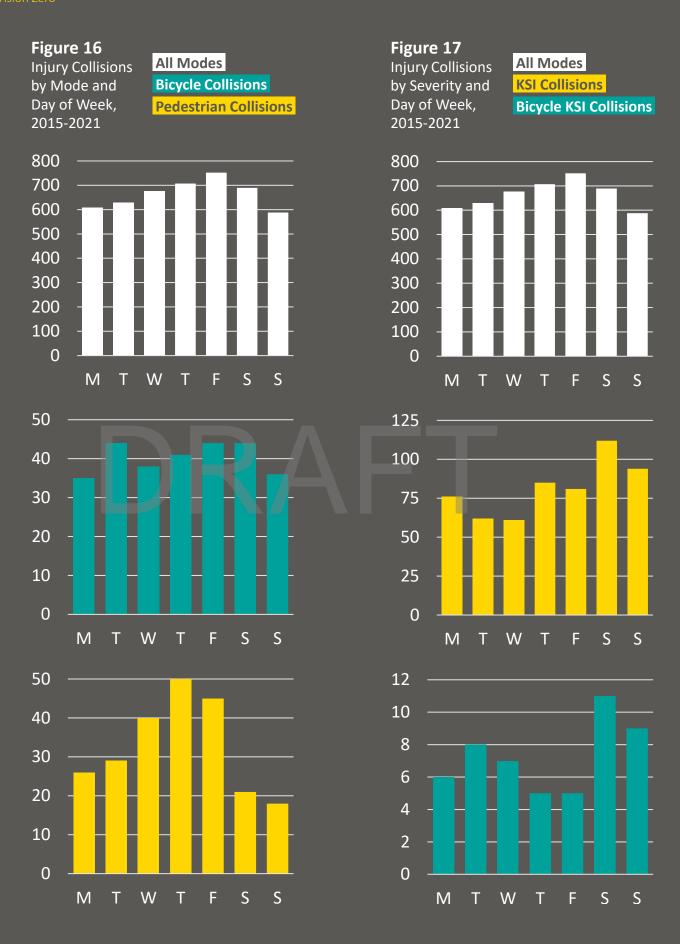
^{*} Nighttime collisions are defined as those collisions whose lighting information is not reported as "daylight".

Figure 14 Nighttime Collisions, 2015-2021

Daytime Collisions

Nighttime Collisions





Collisions by Mode and Day of Week

Figure 16 shows the distribution of injury collisions involving all modes, those involving bicycles, and those involving pedestrians across days of the week, while **Figure 17** shows the same for all injury collisions, KSI collisions, and bicycle KSI collisions.

As shown, there is clear distinction in the time of week that collisions are occuring based on mode and severity. While pedestrian collisions are more likely to occur during the week, bicycle collisions are occuring at roughly equal rates on weekdays and weekend days. Although bicycle KSI collisions and overall KSI collisions see peaks during the weekend, the overall level of collisions during the weekend are not significantly different than that of weekdays.

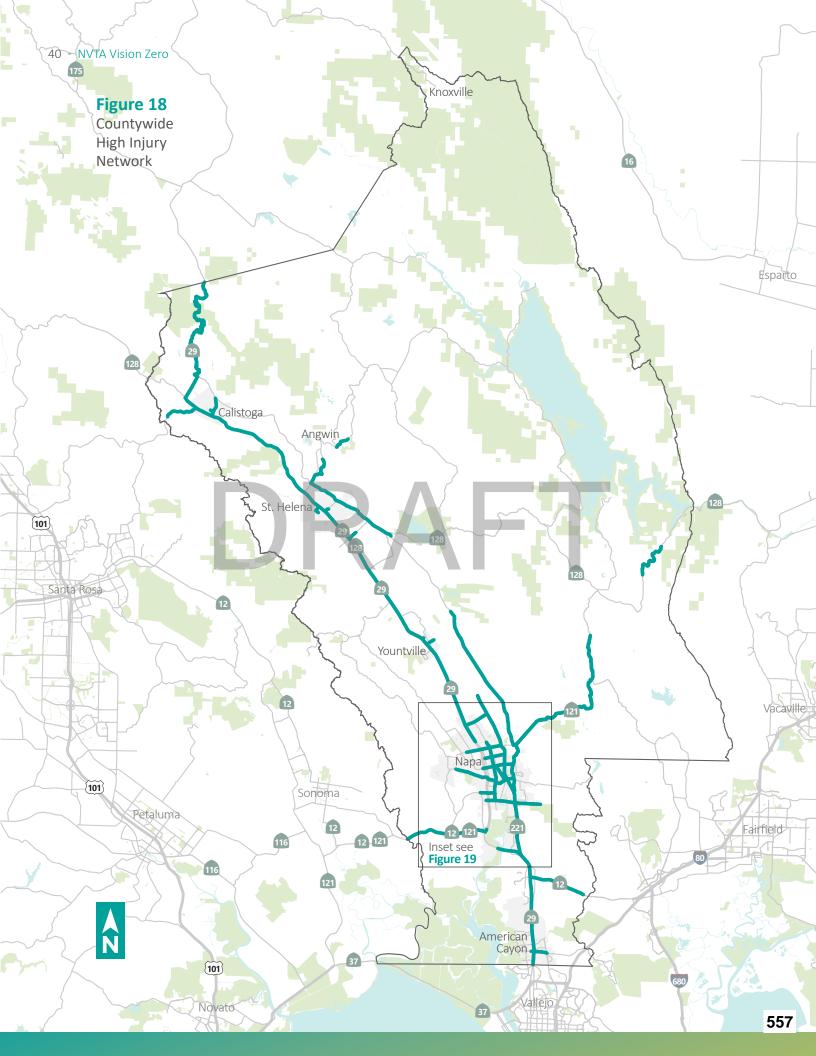
The peak in KSI collisions on the weekend is noteworthy. These distribution patterns may reflect the region's status as a regional tourist and recreational destination and the associated weekend traffic volumes.

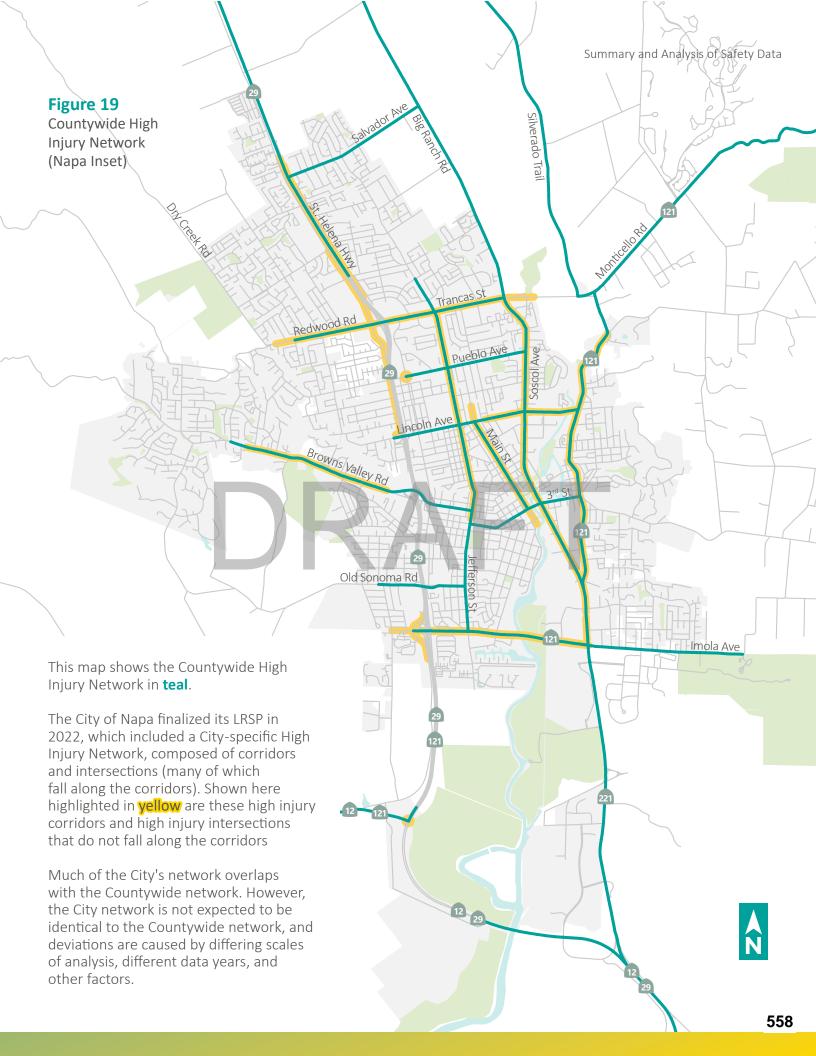
Countywide High Injury Network

Almost three-quarters of all injury collisions and two-thirds of all KSI collisions in the region occur on just 8% of its roadways.

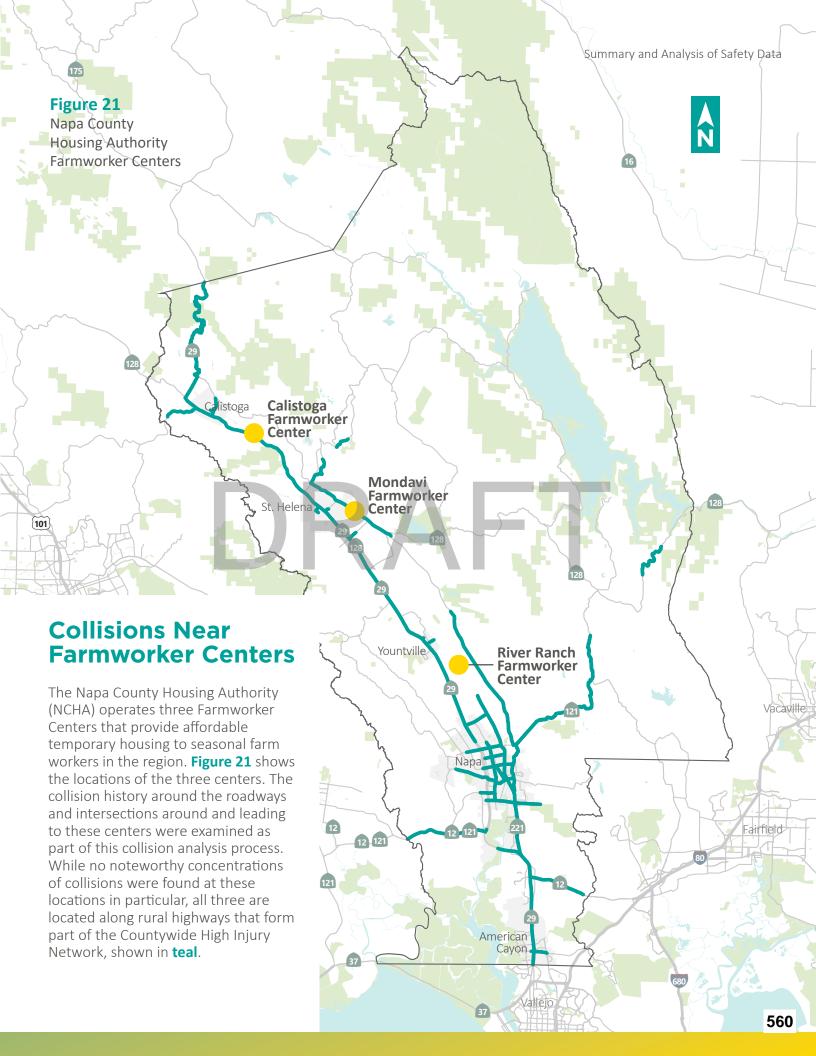
From the collision data, a Countywide High Injury Network was developed to identify the roadways with the highest levels of injury collisions, as shown on **Figure 18**.

The Countywide High Injury Network consists of just 8% of the roadway network of Napa Valley, but is the site of the vast majority of injury collisions. 4,651 collisions occurred during the study period. Of these, 3,357, or 72%, were located along the High Injury Network. 571 of these study period collisions were KSIs, of which 371, or 65%, were located along the network.









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Collision Profiles of Emphasis

Through a systemic analysis of collision records, ten profiles of emphasis were identified for Napa Valley. These profiles were identified through historical collision data, contextual data, and stakeholder feedback, and represent the most significant patterns behind injury collisions - and especially KSI collisions - in the region. Combined, they account for X% of injury collisions and X% of KSI collisions in Napa Valley during the study period.

The ten profiles are as follows:

- 1. Unsafe Speeds on Non-Urban Thoroughfares
- 2. Driving Under the Influence (DUI)
- 3. Broadside Collisions
- 4. Hit Object Collisions
- 5. Nighttime Collisions Along Major Roadways
- 6. Pedestrians Hit in Crosswalks at Intersections
- 7. Pedestrians Hit Crossing Outside Crosswalks or Walking in Road
- 8. Bicycle Collisions at Intersections
- 9. Highway Gateways
- 10. Collisions along Highways Serving as Main Streets

The following pages contain cutsheets that present each collision profile, along with the following information:

- Description and associated information about each profile
- Number of collisions associated, including number of KSI collisions among those (note that profiles are not mutually exclusive; collisions can fall under multiple profiles, and totals will exceed 100%)
- A map of collision locations

Engineering countermeasures that can potentially address these collisions are arranged by level of implementation effort for consideration in generating short-, medium-, and long-term plans. The full suite of engineering countermeasures can be found in



Unsafe Speeds on Non-Urban Thoroughfares

Speeding remains a top concern in Napa Valley, especially in contexts outside the region's cities and towns where roadways can feel like the "open road," but actually serve substantial numbers of wayside uses and see substantial cross traffic from intersecting roadways and driveways.

The listed countermeasures aim to slow vehicles either through changes in roadway geometry, roadway cross-section, or visual information. Using multiple countermeasures creates a more redundant system.

Overall Collisions

828

18% of injury collisions

KSI Collisions

72

13% of KSI collisions

Bike Collisions

15

5% of injury bike collisions

Bike KSI Collisions

10

20% of KSI bike collisions

Potential Engineering Countermeasures

Low Cost



Chevron Signs on Horizontal Curves



Curve Advance Warning Sign



Delineators, Reflectors, and/or Object Markers



Extend Yellow and All Red Time



Lane Narrowing

Safety

Edge



LED-Enhanced Sign



Retroreflective Tape on Signal/ Improve Signal Visibility

Speed Limit

Reduction



Rumble Strips

Medium Cost



Advanced Dilemma Zone Detection



Guardrail

Speed

Sign

. Feedback



Improved Pavement Friction



Intersection Lighting



Protected Left Turns



Raised Median



Segment Lighting



Speed Sensitive Rest in Red Signal

High Cost



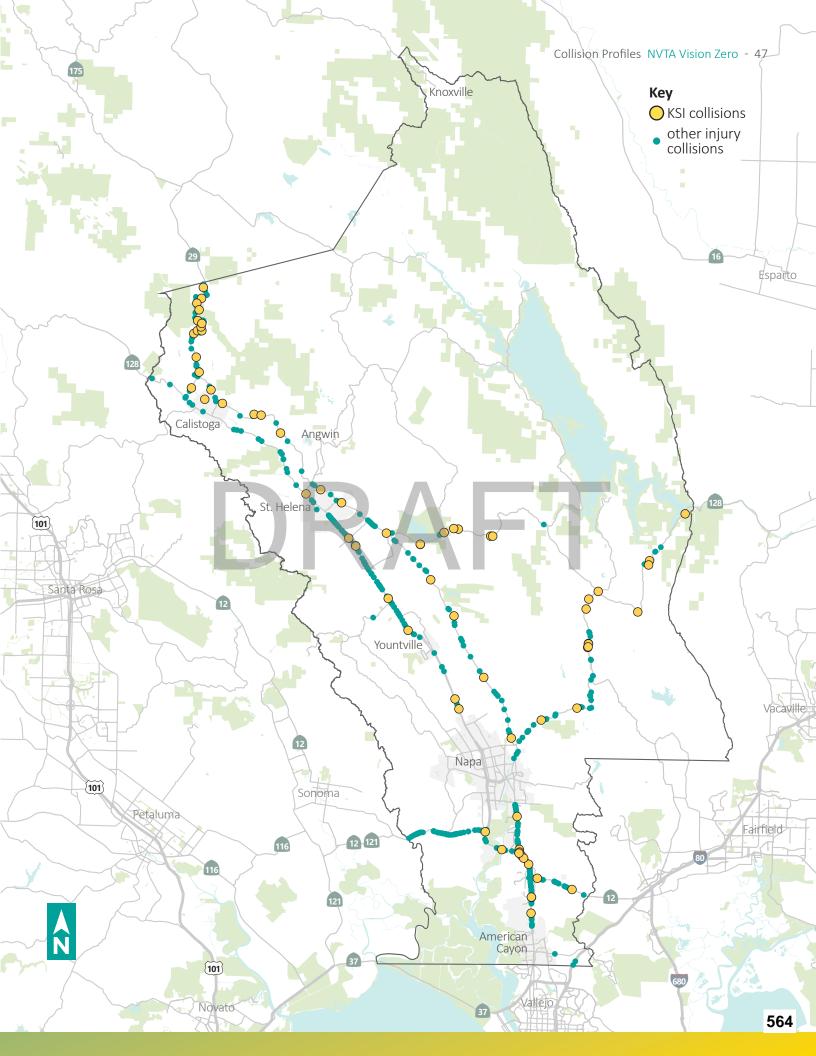
Intersection Reconstruction and Tightening



Roundabout



Signal





Driving Under the Influence

Driving Under the Influence (DUI) collisions account for almost a quarter of all KSI collisions in Napa Valley. The region's status as a global wine destination further contributes to the serious concerns surrounding DUI collisions, which tend to be more severe. Non-engineering interventions will need to be the primary means of addressing these challenges, but may be supplemented with the listed engineering countermeasures that aim to make roadway designs more forgiving in general.

Overall Collisions **637**

14% of injury collisions

KSI Collisions

134

23% of KSI collisions Bike Collisions

23

8% of injury bike collisions

Bike KSI Collisions

3

6% of KSI bike collisions

Pedestrian Collisions

39

17% of injury pedestrian collisions

Pedestrian KSI Collisions

18

32% of KSI pedestrian collisions

Potential Non-Engineering Countermeasures





Public Information Campaigns





Targeted Enforcement and Deterrence

Potential Supplementary Engineering Countermeasures

Low Cost



Chevron Signs on Horizontal Curves



Curve Advance Warning Sign



Delineators, Reflectors, and/or Object Markers



LED-Enhanced Sign



Rumble Strips

Upgrade Striping



Safety Edge



Speed Feedback Sign



Speed Limit Reduction

Medium Cost



Guardrail



Improved Pavement Friction



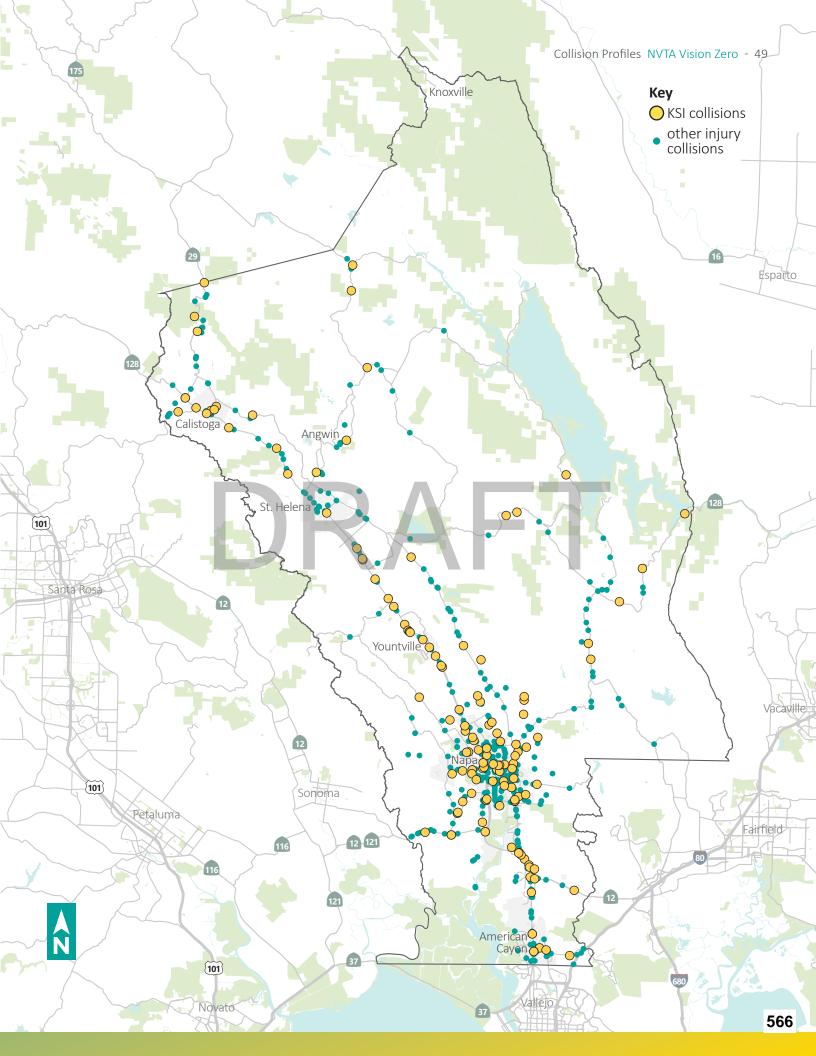
Raised Median



High Cost









Broadside Collisions

Broadsides are one of the collision types most likely to cause death or severe injury due to the high amount of kinetic energy transfer. Locations and roadway contexts of particular concern include intersections of minor roadways with major roadways or highways, intersections with side-street stop control, and intersections with unprotected left turns.

The listed countermeasures are aimed to reduce or separate turning movement conflicts and slow vehicles upon approach to and through intersections.

Overall Collisions

1,091

23% of injury collisions

KSI Collisions

90

16% of KSI collisions Bike Collisions

135

48% of injury bike collisions

Bike KSI Collisions

14

27% of KSI bike collisions

Potential Engineering Countermeasures

Low Cost



All-Way Stop Control

Provide

Sightlines

Approproate



Centerline Hardening

Retroreflective

Tape on Signal/

Improve Signal

Visibility



Delineators, Reflectors, and/or Object Markers

Speed Limit

Reduction



Extend Yellow and All Red Time



Upgrade Signal Head

Medium Cost



Advanced Dilemma Zone Detection

Supplemental Signal Heads



Intersection Lighting



Protected Left Turns



Raised Median



Raised Median



Red Light Camera



Segment Lighting



Speed Sensitive Rest in Red Signal

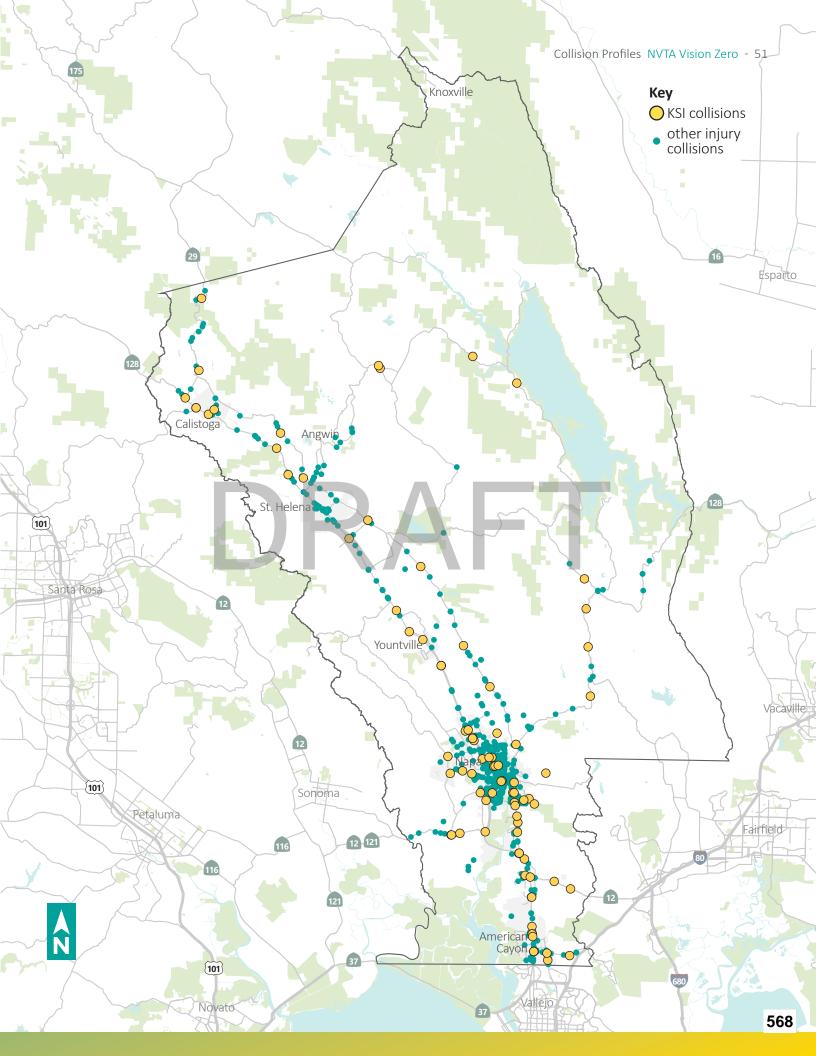
High Cost







Signal





Cost

Reconstruction and Tightening

Hit Object Collisions

Hit Object collisions are those in which vehicles collide with fixed objects, such as a roadside utility pole or signpot, rather than another party. They can be related to other risk factors such as speeding or driving under the influence, as both increase the risk of vehicles losing control and hitting roadside objects.

The listed countermeasures are aimed to increase the likelihood of vehicles staying in road and in their proper lane and decrease potential severity of a collision if a vehicle does leave the roadway.

Overall Collisions

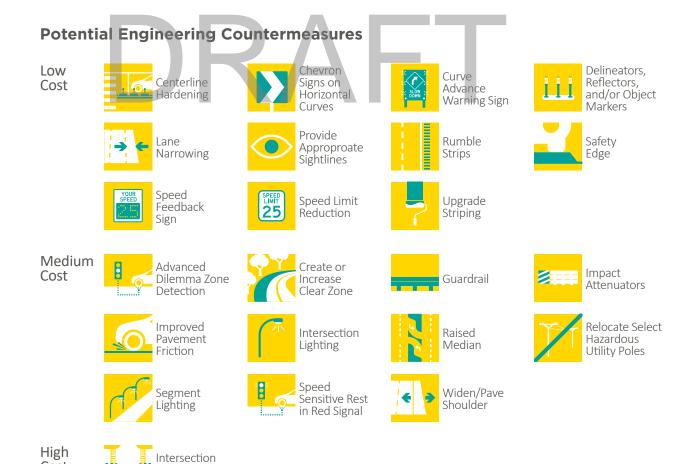
974

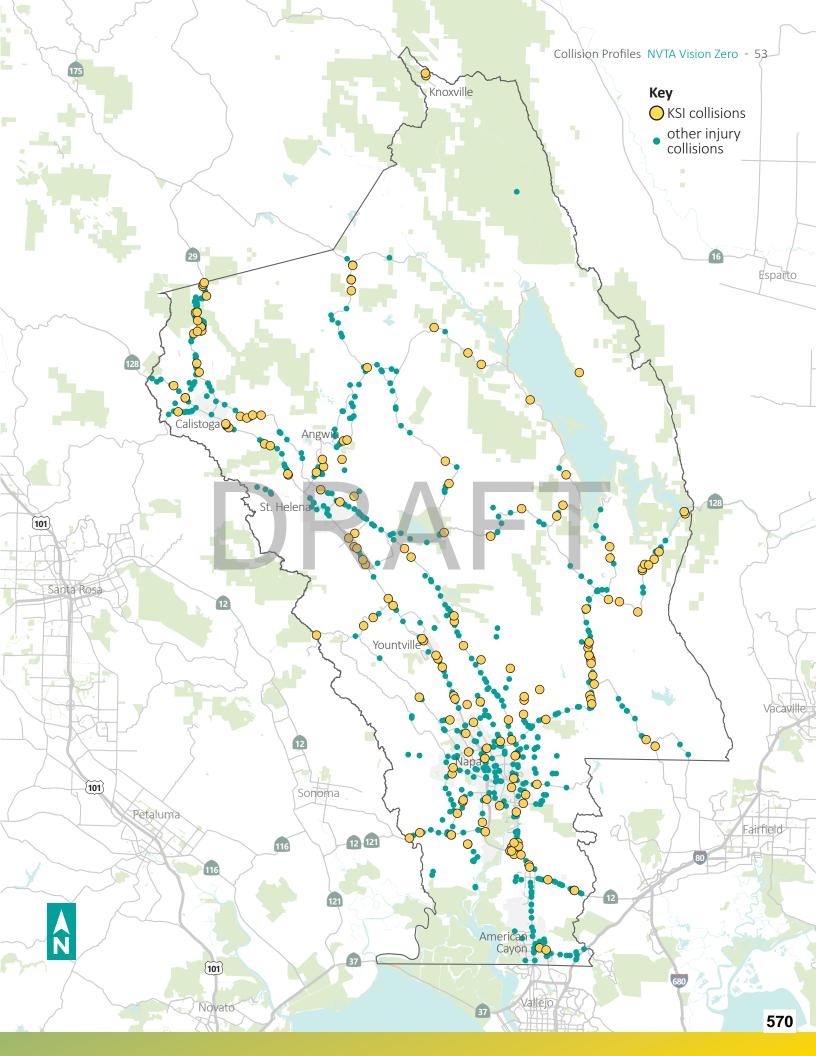
21% of injury collisions

KSI Collisions

175

31% of KSI collisions







Nighttime Collisions Along Major Roadways

Collisions during the nighttime are a serious concern, as many of the rural roadways in the region are not well-lit, and streetlights that do exist vary in their efficacy.

The listed countermeasures are aimed to improve visibility for and of all modes in dark conditions and creating safety redundancies in anticipation of impaired visibility.

Overall Collisions

854

18% of injury collisions

KSI Collisions

138

24% of KSI collisions Bike Collisions

24

9% of injury bike collisions

Bike KSI Collisions

6

12% of KSI bike collisions

Pedestrian Collisions

46

20% of injury pedestrian collisions

Pedestrian KSI Collisions

27

47% of KSI pedestrian collisions

Potential Engineering Countermeasures

Low Cost



Advance Stop Bar

Delineators,

and/or Object

Reflectors,

Markers

Provide

Sightlines



Advance Yield Markings

Green

Conflict

Striping

Retroreflective

Tape on Signal/

Improve Signal



Chevron Signs on Horizontal Curves



High-Visibility Crosswalk



Rumble Strips



Curve Advance Warning Sign



Leading Pedestrian Interval (LPI)



Safety Edge



Speed Limit Reduction

Approproate



Upgrade Striping

Visibility

Medium Cost



Add Sidewalk



Guardrail



Intersection Lighting



Raised Crosswalk



Raised Median



Rectangular Rapid Flashing Beacon



Segment Lighting

High Cost



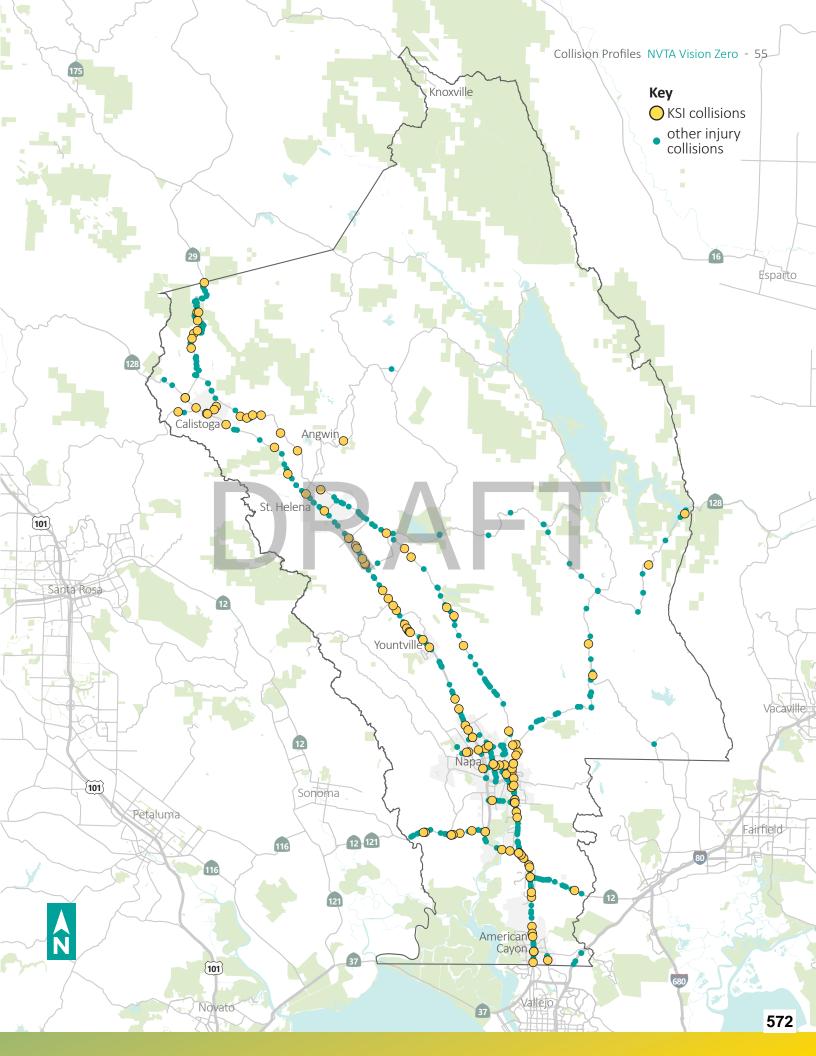
Intersection Reconstruction and Tightening



Pedestrian Hybrid Beacon



Separated Bikeway





Pedestrians Hit in Crosswalks at Intersections

Collisions during the nighttime are a serious concern. Many roadways simply do not have streetlights, and streetlights that do exist vary in luminosity and spacing, and are not always effective, especially for pedestrians and bicyclists, as they are often designed primarily to illuminate the roadway for vehicles.

The listed countermeasures are aimed to improve visibility for and of all modes in dark conditions and creating safety redundancies in anticipation of impaired visibility.

Pedestrian Collisions

57% of injury pedestrian collisions

Pedestrian **KSI Collisions**

40% of KSI pedestrian collisions

Potential Engineering Countermeasures

Low Cost





Extend Pedestrian Crossing Time

Advance

Markings

Yield





Approproate Sightlines Upgrade Intersection

Markings

All-Way Stop

Control

Extend

Provide

Yellow and

All Red Time



Remove Crossing Prohibition

Centerline

Hardening

Extended

Time Push

Button



Yield To Pedestrians Sign

Medium Cost



Curb Extensions

Raised

Crosswalk

Speed Limit

Reduction



Intersection Lighting

Straighten

Crosswalk



Pedestrian Countdown Timer



Protected Left Turns



Rectangular Rapid Flashing Beacon



Refuge Island



Road Diet

High Cost



Intersection Reconstruction and Tightening



Pedestrian Hvbrid Beacon



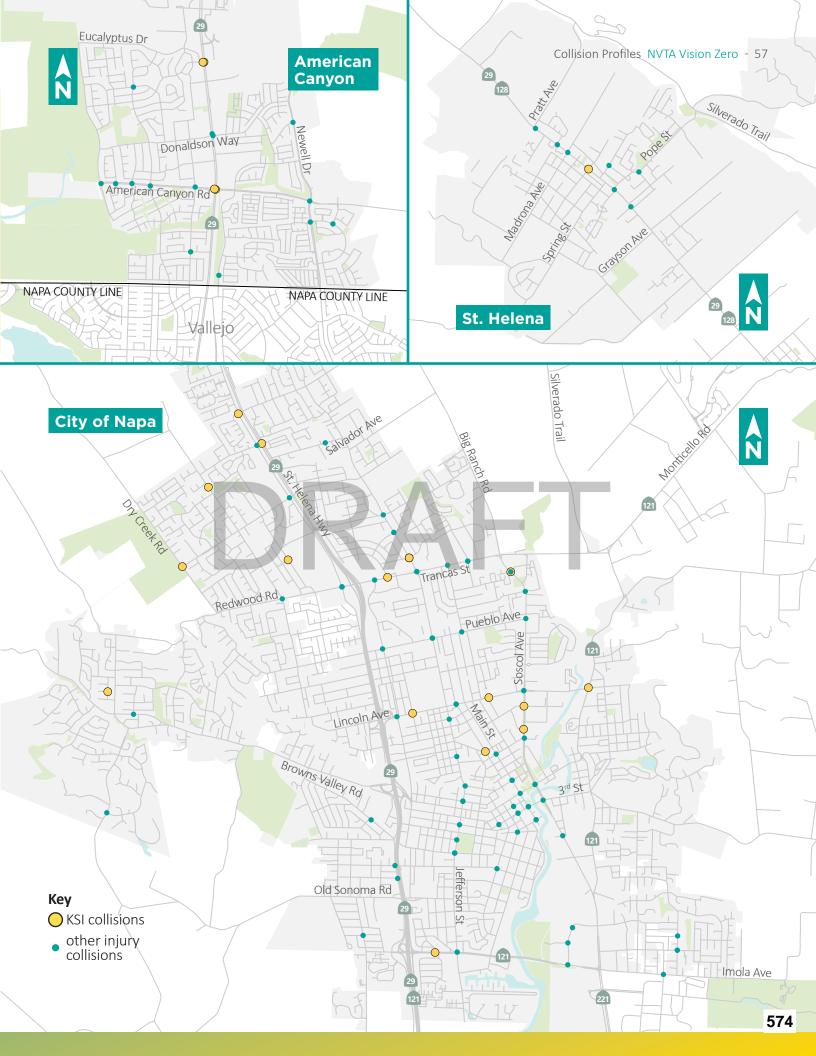
Protected Intersection



Raised Intersection



Signal





Pedestrians Hit Crossing Outside Crosswalks or Walking in Road

The region has many roadways and intersections that lack sidewalks and crosswalks, respectively. Many pedestrian collisions, including a majority of pedestrian KSIs, occurred with people crossing outside of crosswalks or walking along the road, suggesting unmet desire lines, which the listed countermeasures are aimed to help meet.

Pedestrian Collisions

130

57% of injury pedestrian collisions

Pedestrian KSI Collisions

23

40% of KSI pedestrian collisions

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Potential Supplementary Engineering Countermeasures

Low Cost







High-Visibility Crosswalk



Upgrade Uncontrolled Pedestrian Crossings



Remove Crossing Prohibition







Speed Limit Reduction



Yield To Pedestrians Sign

Medium Cost



Add Sidewalk



Curb Extensions



Raised Crosswalk



Rectangular Rapid Flashing Beacon

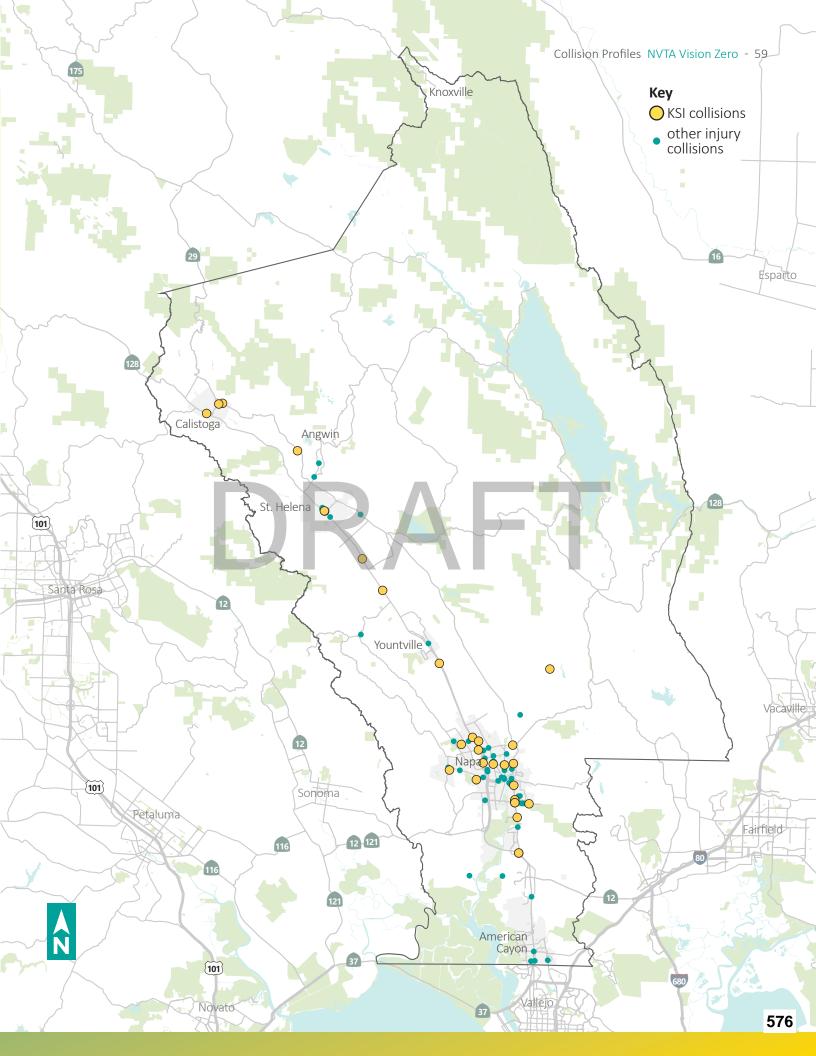
Refuge Island



Road Diet

High Cost







Bicycle Collisions at Intersections

The region has a large number of roadways without adequate bicycle facilities. People biking are vulnerable on roadways, especially when interacting with vehicles at intersections.

The listed countermeasures aim to increase bike visibility at the intersection and slow down vehicles as they approach and travel through intersections.

Bike Collisions

84% of injury bike collisions

Bike KSI Collisions

69% of KSI bike collisions

Potential Engineering Countermeasures

Low Cost



Bicycle Crossing (Solid Green Paint)



Bicycles May Use Full Lane Sign



Delineators, Reflectors, and/or Object Markers



Extend Bike Lane to Intersection



Green Conflict Striping



Mixing Zone



Prohibit Right Turn on Red



Shared Sidewalk Sign



Speed Limit Reduction

Medium Cost



Bike Detection







Protected Left Turns

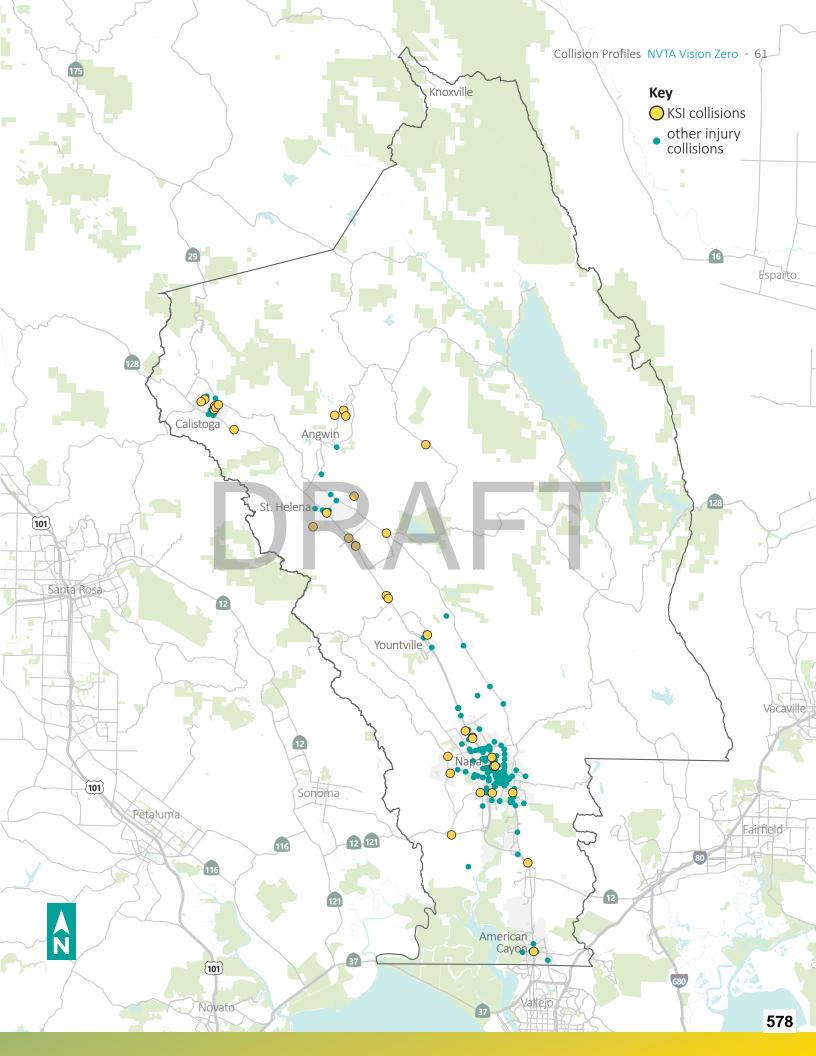
Road Diet

High Cost











Collisions at Highway Gateways

Yountville and Calistoga both feature at-grade intersections that serve as the primary gateway and point of interface between the highway and the center of the city. Risk at these intersections arise from higher speed through-traffic crossing and mixing with local traffic without sufficient transition space in between.

The listed countermeasures aim to reduce vehicle speeds at these locations and reduce conflicts between major and minor streets.

Overall Collisions

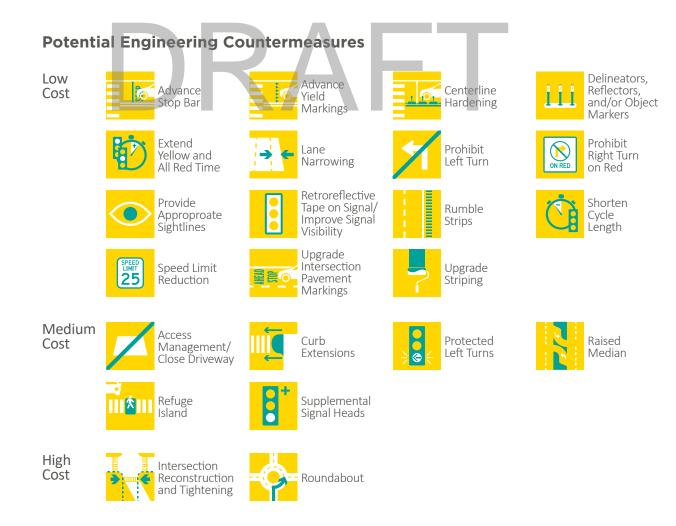
47

46% of injury collisions in Calistoga and Yountville

KSI Collisions

175

31% of KSI collisions in Calistoga and Yountville







Collisions along Highways Serving as Main Streets

St. Helena and Calistoga both feature main streets with high activity that also serve as highlytrafficked thoroughfares, and this double role can create safety risks in the interaction between high volumes of higher-speed through traffic and local activity.

The listed countermeasures aim to reduce speeds as vehicles travel on main streets through downtowns to improve the safety of other road users in dynamic, mixed-use areas.

Overall Collisions

40% of injury collisions in Calistoga and St. Helena

KSI Collisions

67% of KSI collisions in Calistoga and St. Helena

Bike Collisions

24% of injury bike collisions in Calistoga and St. Helena

Bike KSI Collisions

30% of KSI bike collisions in Calistoga and St. Helena Pedestrian Collisions

67% of injury pedestrian collisions in Calistoga and St. Helena

Pedestrian **KSI Collisions**



57% of KSI pedestrian collisions in Calistoga and St. Helena

Potential Engineering Countermeasures

Low Cost



All-Way Stop Control

Uncontrolled

Pedestrian

Crossings

Straighten Crosswalk



Centerline Hardening



Lane Narrowing



Curbside Management

Speed

Hump or



High-Visibility Crosswalk



Speed Limit Reduction

Medium Cost



Access Management/ Close Driveway



Curb Extensions



Raised Crosswalk



Rectangular Rapid Flashing Beacon

Refuge Island

High Cost









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Proven Safety Countermeasures

This section presents safety countermeasures covering the Safe System elements that address the collision trends identified through the collision analysis process. This section builds upon the work that NVTA and its member agencies have done to prioritize safer roadway design through efforts such as project implementation, grant applications, maintenance activities, and adoption of planning documents that identify priorities and future projects.

The focus on the Safe System Approach, along with the emphasis on equity, helps to provide alignment with the Plan's vision and goals, and sets NVTA and its member agencies up for success in recognition of emerging safety best practices.

Systemic improvements, both engineering and non-engineering related, were identified for implementation where and when appropriate. The countermeasures cover the five elements of a Safe System: Safe Roads, Safe Road Users, Safe Speeds, Safe Vehicles, and Post-Crash Care, as shown in Figure 22. Engineering countermeasures fall into the Safe Roads and Safe Speeds category, while there are non-engineering countermeasures in each of the five categories.

Figure 22The Five Elements of a Safe System



Engineering countermeasures are physical, infrastructure-based improvements that can be made to roadways to make them safer by design. In addition to engineering and design strategies, there are non-engineering strategies that can be implemented to improve safety on Napa Valley roads. These countermeasures introduce education, enforcement, and other policy instruments as means of encouraging safer roadways through user behavior, and they can be used to tackle traffic safety problems such as alcohol and drug impaired driving, distracted driving, speeding and speed management, and pedestrian and bicycle safety. In the selection of nonengineering countermeasures, the Ninth Edition of Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, published by the National Highway Traffic Safety Administration (NHTSA) in 2017, served as a guide. Non-engineering countermeasures are given effectiveness ratings based on these guidelines, if data is available. Figure 23 shows the scale for these ratings.



Safe Roads

All engineering countermeasures fall under the Safe Roads category. A full toolbox of engineering countermeasures are included in **Appendix A.** Many of these countermeasures are recommended for the hot spots and collision profiles included in Chapter 3 of this report. Most of the countermeasures are included in the 2020 Caltrans Local Roadway Safety Manual (LRSM) and can be advantageous for use in Caltrans Highway Safety Improvement Program (HSIP) grant funding applications. There are also many effective safety countermeasures beyond those listed in the LRSM, and several are included in this toolbox.



Figure 23
Effectiveness Ratings
for Non-Engineering
Countermeasures



Demonstrated to be effective by several highquality evaluations with consistent results



Demonstrated to be effective in certain situations



Likely to be effective based on balance of evidence from high-quality evaluations or other sources



Effectiveness still undetermined as different methods of implementation produce different results



Limited or no high-quality evaluation evidence

Regular Regional Traffic Safety Coordination Meetings

As Napa Valley sees residents and visitors who often pass through different jurisdictions on a daily basis, coordination and updates on roadway safety best practices across the region can create a unified approach to traffic safety. Information sharing could improve efficiencies in traffic safety management, including policies that are working and those that require improvement. The meetings could be held monthly or quarterly.

In February 2023, NVTA hosted a Technical Advisory Working Group and Stakeholder Working Group with representatives from member agencies, first responders, community-based organizations, and Elected Members, among others. These members spoke on a number of projects happening within their jurisdiction including guard rail upgrades regionally, updates to the Neighborhood Traffic Calming Manual, bike improvement projects, and speed lowering efforts. This allowed members within the region to hear about best practices, successes, and challenges to enhance their understanding of roadway safety.

Lead Agency

NVTA

Partner Agencies

Member agency Public Works Departments

Funding Sources NVTA funds

Context Regional

Placemaking in Traffic Safety Initiatives

Launch a regional initiative to treat streets as places by incorporating permanent placemaking efforts (public art, green infrastructure, and neighborhood amenities) into traffic safety initiatives. Such amenities can activate streetscapes and encourage lower speeds and better awareness of non-vehicle users. Prioritize areas with high numbers of vulnerable users.

Lead Agency

Member agency Public Works Departments

Partner Agencies

- » NVTA
- » Community-based organizations

Funding Sources

- » Member agency local funds
- » Public-private partnerships
- » User fees

Context

Areas with high volumes of vulnerable users



Education & Public Awareness Campaigns Targeted at Speeding, Driving Under the Influence, and Increasing Awareness of People Walking and Biking

Coordinate with member agency
Communications Department to use existing social media accounts (e.g. Facebook,
NextDoor, Twitter, etc.) to establish an ongoing public education campaign focused on safe and responsible driving, discouraging drinking and driving, and increasing awareness of pedestrians and bicyclists.
Campaigns could also involve collaborating with local radio station to disseminate safety messages in English and Spanish.
Additionally, campaigns could collaborate with community-based organizations and direct service providers to vulnerable populations.

Resources

The OTS Go Safely California campaign has free resources for local agencies to use in implementing public awareness campaigns.

Lead Agency

- » NVTA
- » Member agency Police Departments

Partner Agencies

- » Member agency Communications Departments
- » Member agency Public Health Departments
- » Community-based organizations
- » Local media outlets
- » OTS Go Safely California Campaign

Funding Sources

California Office of Traffic (OTS) Grants

Context

Regional

Effectiveness

Mass Media Campaigns on DUI





Pedestrian Crossing Campaign

San Francisco Municipal Transportation Agency's (SFMTA) "Be Nice, Look Twice" Pedestrian Safety Campaign aims to increase driver awareness of pedestrians in crosswalks and encourage proper yielding behavior.

Source: SFMTA



Turning Campaign

"Safety - It's Your Turn", an SFMTA campaign, encourages safe left-turn behavior through social media, billboard, and bus poster messaging, disseminated in multiple languages.

Source: SFMTA

Public Health Partnerships on DUI Prevention

Prevention and education policies focus on mobilizing and educating the community and intervening before driving under the influence takes place. According to NHTSA research, alcohol problem assessment and treatment programs, as well as alcohol intervention in settings such as a doctor's office, are highly effective strategies for improving safety outcomes.

To help residents with alcohol treatment, the Napa County Alcohol & Drug Services and Aldea Children and Family Services provides counseling and treatment services for adults, young adults, and youth. The County's Health & Human Services Department could partner with the Member Agency Police Department's to share information and conduct screenings.

Resources

- » Behavior Change Campaigns to Improve Traffic Safety Toolkit
- » Countermeasures that Work, 10th Edition

Lead Agency

Napa County Public Health Agency

Partner Agencies

- » Medical offices/centers
- » Member agency Police Departments
- » California Highway Patrol (CHP)

Funding Sources

California Office of Traffic (OTS) Grants

Context

Regional, focused on DUI crash hotspots

Effectiveness

Alcohol Screening & Brief Intervention



Safe Routes to School with Street Safety Ambassadors

The Safe Routes to School program is a partnership between the Napa County Office of Education, Napa Valley Transportation Authority, and the Napa County Bicycle Coalition (NCBC). NCBC currently leads the Napa County Safe Routes program regionally and provides on-bike safety education for elementary school students, family biking workshops, and hosts Bike to School Day. The program also worked with 31 public schools between 2018-2022 to identify barriers to safe walking and biking and create a comprehensive report on actions to eliminate these barriers.

The program can be expanded to study additional schools and partner with school districts and Member Agency Police Departments to train and engage street safety ambassadors to support school arrival and dismissal operations. These safety ambassadors can help to facilitate safe pickup and drop-off throughout the year, with an emphasis on the start of the school year.

Resources

Safe Routes – National Center for Safe Routes to School, https://www.saferoutesinfo.org/

Lead Organization

Napa County Bicycle Coalition

Partner Agencies/Organization

- » N\/ΤΔ
- » Napa County Office of Education
- » Local school districts

Funding Sources

- » California Active Transportation (ATP) Grants
- » California Office of Traffic (OTS) Grants

Context

Regional

Effectiveness

Safe Routes to School





High-Visibility Enforcement for DUI

Deterrence policies, such as high visibility enforcement, focus on raising the actual and perceived risk of high-risk behaviors. Member agency Police Departments should continue their use of high visibility enforcement for DUIs to deter and increase awareness of the risks of this behavior.

High visibility enforcement for driving under the influence, such as publicized sobriety checkpoints and saturation patrols, has been found to be effective to improve safety outcomes. Since speeding and driving aggressively are moving violations, officers can focus their efforts along corridors with a history of speeding-related collisions and speeding violations since they must observe driving behavior on the road.

Based on the evaluation evidence gathered by NHTSA in Countermeasures that Work, the findings have been inconclusive on the effectiveness of high-visibility enforcement efforts focused on speeding and driving aggressively. Some studies found these efforts produced safety-related benefits while other studies found these efforts produced no benefits or even negative outcomes (e.g. an increase in crashes), Integrated enforcement would include coordination with Public Awareness Campaigns. For example, widespread dissemination of multi-lingual educational messaging and promotion of safe rides home programs in advance of major DUI enforcement efforts will help to mitigate equity concerns about disproportionate impacts of fines/fees on lower income residents.

Resources

Massachusetts Saving Lives – Enforcement Strategies, https://solutions.edc.org/solutions/prevention-solutions

This program combines community engagement events, high-visibility enforcement including sobriety checkpoints, and media communication to discourage DUI.

Lead Agency

Law Enforcement Officials (LEO), Member Agency Police Departments

Partner Agencies

» NVTA

» California Office of Traffic Safety (OTS)

Funding Sources

California Office of Traffic (OTS) Grants

Context

Regional, focused on DUI crash hotspots

Effectiveness

Publicized Sobriety Checkpoints



High-Visibility Saturation Patrols



Safe Ride Home Program

Develop partnerships between the Member Agencies Public Works Department and Police Departments, TNC operators, NVTA, and local businesses to offer promotional codes for free or discounted rides home from establishments or events throughout the county to reduce the potential for DUI, drowsy driving, or distracted driving.

Resources

Portland Bureau of Transportation Safe Ride Home Program, https://www.portlandoregon.gov/transportation/76611

PBOT partnered with the Portland Police Bureau, TriMet, Old Town Hospitality Group, and Portland cab companies Radio Cab, Broadway Cab, New Rose City Cab and United Independent Cab, as well as transportation network companies Lyft and Uber to provide promo codes for discounted rides. The program is funded by a 50-cent fee charged for every taxi and TNC ride in Portland.

Lead Agency

NVTA

Partner Agencies

- » Member agency Public Works Departments
- » Member agency Police Departments
- » TNC operators
- » Local businesses

Funding Sources

User Fees (taxi and TNC fares)

Context

Regional, during weekends, holidays, and other special events

Effectiveness:

Alternative Transportation







Pedestrian Safety and Unhoused Services

Homeless services provide temporary residence for homeless individuals and families. In jurisdictions with a large unsheltered population, unsheltered people are often disproportionately represented in pedestrian collisions. Unsheltered people have a relatively high level of traffic exposure as they may stand in medians, cross roadways outside of designated pedestrian crossings, and/or frequent parking lots.

Lead Agency

Napa County Health & Human Services

Partner Agencies

- » Member agency Police Departments
- » Napa County Sheriff's Department
- » Member agency Public Works Departments
- » California Highway Patrol (CHP)
- » Housing organizations

Funding Sources

- » County Funds
- » Public-private partnerships

Context

Regional, focused on areas with higher homelessness populations

Effectiveness

High-visibility Saturation Patrols



Integrated Enforcement



Enforcement Priorities Mandate

Use crash history and emphasis area corridors as one criterion to direct enforcement efforts, with a focus on the three "Ds" identified by the Member Agency Police Departments: Driving Under the Influence, Distracted Driving, and Dangerous Driving. This may require additional police department funding.

Resources

- » Behavior Change Campaigns to Improve Traffic Safety Toolkit
- » Countermeasures that Work, 10th Edition

Lead Agency

- » Member agency Police Departments
- » Napa County Sheriff's Department

Partner Agencies

- » NVTA
- » Member agency Public Works Departments

Funding Sources

California Office of Traffic (OTS) Grants

Context

Hot spot corridors and locations with DUIs, distracted driving, and dangerous driving

Effectiveness

Communications and Outreach Supporting Enforcement



High-Visibility Cell Phone and Text Messaging Enforcement



Pair Education with Engineering Countermeasures

Educational materials can be used to teach people how to use new and unfamiliar safety countermeasures, such as rectangular rapid flashing beacons (RRFB), roundabouts, or protected bikeways. These materials can consist of informational signs or demonstration videos, and should be presented in multiple languages, including English and Spanish.

Resources

» City of Sacramento Bicycling videos, https://www.cityofsacramento.org/Public-Works/Transportation/Programs-and-Services/Bicycling-Program/Bicycle-Videos

The City of Sacramento has used demonstration videos to engage residents in bicycling safety procedures. The videos on their website feature a series of safety improvements such as protected bike lanes, bike boxes, and bike signals, and inform residents how to use these new roadway features, both as a bicyclist and a driver.



San Francisco Municipal Transportation Agency's (SFMTA) signage explaining newlyinstalled protected bike lanes.

Source: SFMTA



The City of Sacramento's video explanation of how to use bike boxes.

Source: City of Sacramento

» City of Los Angeles Education through Pop-Up Installations

As part of Bike to Work Day in 2019, LADOT used temporary popup installations to introduce safety improvements in specific neighborhoods. Hay bales, straw wattles, and plants were used to test the roundabout design and educate drivers on how to use the traffic circle countermeasure. In addition to introducing safety improvements, popup installations can bring out emergency vehicles to ensure the vehicles can navigate around roundabouts or curb extensions.

» City of San Francisco Informational Signs

The San Francisco Municipal
Transportation Agency (SFMTA) posted
signs with a brief explanation next to a
newly installed protected bike lane in
multiple languages as part of their Vision
Zero SF initiative. This approach was
also applied to educate people about
pedestrian scrambles and bus bulb outs.

» City of Berkeley "How to Use a Pedestrian Hybrid Beacon" Flyer

This informational flyer was paired with the installation of a new PHB and includes both driver and pedestrian instruction for properly using the new countermeasure.



Speed Limit Modification

California Assembly Bill (AB) 43 was passed in 2021 to provide a means to lower speed limits on additional corridors. Cities will have increasing flexibility starting in 2024 to enforce context-sensitive speed limits. AB 43 features the following five major components, focused on giving local jurisdictions more flexibility in setting speed limits, especially regarding vulnerable road users:

- » Engineering & Traffic Survey (E&TS) An option to extend enforceable time period
- » Post E&TS
 An agency can elect to retain current or immediately prior speed limit
- » Speed Limit Reduction Reduction of additional 5 mph based on several factors, including designation of local "Safety Corridors"
- Prima Facie Speed Limits
 Options for 15 and 25 mph in certain areas depending on context
- » Business Activity Districts Option for 20 or 25 mph

In particular, the designation of "Safety Corridors" could be applied to roadways where the highest number of serious injury and fatality crashes occur, identifying specific locations or corridor-level segments with high crash occurrences and stratified by mode. These designations must be approved by a professional engineer.

The Cities of Napa and American Canyon have put AB 43 into effect, lowering speed limits in their downtown districts and in school zones.

Lead Agency

Member agency Public Works Departments

Partner Agencies

- » Member agency Police Departments
- » Napa County Sheriff's Department
- » California Highway Patrol (CHP)

Funding Sources

- » California Office of Traffic Safety (OTS) Grants
- » Local funds

Context

Regional, focused on "safety corridors," business activity districts, and school zones





Source: NACTO

Automated Enforcement

Automated enforcement, such as red-light cameras or speed cameras, target the specific drivers who are behaving dangerously. Such enforcement is already allowed in California. Automated speed detection devices can identify speeding violations and provide citations. Such enforcement is currently not legally allowed in California, but the Legislature is currently considering legislation to allow this type of enforcement.

A strictly data-driven approach to automated enforcement might place red-light or speed cameras in locations with the highest number of collisions. However, given that many low-income neighborhoods have historically received fewer infrastructure investments. which often results in a higher rate of collisions, a strictly data-driven approach could lead to a disproportionate burden of enforcement. Therefore, automated enforcement should be implemented evenly across a jurisdiction at problem locations. In addition, jurisdictions should pair automated enforcement with updated fine structures so that low-income communities don't bear a disproportionate burden.

Lead Agency

Member agency Public Works Departments

Partner Agencies

- » Member agency Police Departments
- » Napa County Sheriff's Department
- » California Highway Patrol (CHP)
- » Community-based organizations

Funding Sources

US Department of Transportation funding

Context

Regional, focused on areas with traffic signs and signal violations or unsafe speed collision trends

Effectiveness

Automated Enforcement



Safe Speeds Education Campaign

Continue existing safety education campaign targeting safe speeds. This could include yard signs (similar to what Slow Down Napa has done), wall boards/posters along highinjury corridors and neighborhoods, ads on bus exteriors, radio ads, etc. Safe Speeds is also applicable to those who bike and scooter. On Class I shared-use paths, those who roll should manage speeds to ensure safety for all those using the facility.

Resources

The California Office of Traffic Safety (OTS) Go Safely California campaign has free resources for local agencies to use in implementing public awareness campaigns.

Lead Agency NVTA

Partner Agencies

- » Member agency Communications Departments
- » Member agency Police Departments
- » Napa County Sheriff's Department
- » California Highway Patrol (CHP)
- » Napa County Public Health Department
- » Local media outlets
- » California Office of Traffic Safety (OTS) Go Safely California Campaign

Funding Sources

- » NVTA funds
- » California Office of Traffic Safety (OTS) Grants

Context

Regional, focused on areas with unsafe speed collision trends

Effectiveness:

Communications and Outreach on Speeding





Emerging Technology

Recent advancements in transportation technology have not only introduced new transportation modes and travel patterns, but have also presented opportunities to better understand travel behavior and encourage safe behavior. The summary on the facing page describes how emerging technology and data sources were incorporated into the safety analysis and development of recommendations for this Plan. The following represents a summary of emerging technology trends related to safety.

Intelligent Transportation Systems

Some existing and emerging on-board vehicle technologies require investments in public infrastructure in order to function properly. For example, lane departure warning technology common on newer vehicles requires regular maintenance of roadway striping and the use of highly retroreflective materials to maximize effectiveness. Emerging Vehicle-to-Infrastructure (V2I) technologies will likely require integration with existing infrastructure. NVTA's Capital Improvement Plan can facilitate the effectiveness of safe vehicle technology with traffic signal and detection upgrades and systematic resurfacing projects to ensure roadway striping is easily visible.

Near Miss Data

Near miss collisions have historically been difficult to study in practical safety applications due to an overall lack of reported information. In the absence of sufficient crash data, near miss data is an important indicator for guiding crash prevention. Video data and incident data from connected vehicles are emerging data sources that can provide key safety insights regarding near misses.

Autonomous Vehicle Readiness Planning

Having strategies prepared to meet and address the oncoming challenges posed by autonomous vehicle (AV) technology will be crucial in advancing road safety. Fully automated vehicles have the potential to transform travel behavior and safety outcomes given that AVs are ultimately designed to operate without any human intervention. Some strategies for preparation include educating the public on current and future safety features and limitations, developing signing and striping standards, and conducting reviews of equity implications. Without appropriate research and guidance, AVs could widen accessibility and safety gaps for vulnerable communities.

Lead Agency

» Napa County

Partner Agencies

- » NVTA
- » Vehicle manufacturers
- » Data vendors

Funding Sources

- » NVTA
- » California Office of Traffic Safety (OTS) Grants
- » Caltrans Highway Safety Improvement Program (HSIP)

Context

Regional



Rapid Response Safety Communication Protocol and Multi-Disciplinary Team

Employ an internal, multi-departmental communication strategy in response to severe and fatal collisions. The protocol should outline a path forward for Public Works staff to be a part of the immediate on-the ground-response to an investigation of severe and fatal collisions, ensuring a multi-disciplinary response team focused both on the behavioral and engineering elements of a collision. Development of this multi-disciplinary team can also support timely data sharing among County departments.

The development of an integrated database with law enforcement collision data and injury surveillance provides can also improve communication protocol. Data integration can help practitioners estimate actual injury costs and costs of treatments for future planning efforts.

Lead Agency

- » Office of Emergency Services
- » Napa County

Partner Agencies

- » NVTA
- » Member agency Police Departments
- » Napa County Sheriff's Department
- » California Highway Patrol (CHP)
- » Napa County Public Health Department
- » Napa County Fire Department
- » Napa County Public Works

Funding Sources

- » Napa County
- » California Office of Traffic Safety (OTS) Grants

Context

Regional



NISION ZERO

DRAFT

6

Implementation, Evaluation, and Funding Strategies

This chapter describes the processes that can be used by NVTA to facilitate successful implementation of this Plan, evaluate its success, and quantify its progress. Funding sources for implementation of safety improvements are also identified.

In terms of implementation, this chapter contains recommendations related to facilitating buy-in and support, and project delivery methods. The evaluation section contains recommendations relating to how and when to update this Plan, establishing metrics and benchmarks, and public communications. These considerations are especially important given NVTA's commitment to eliminating fatalities and severe injuries on Napa Valley's roadway network through the implementation of this Plan, the Vision Zero Action Plan that follows, and ongoing, regular progress monitoring and reporting throughout the process.



Implementation Considerations

Vision Zero implementation will rely upon various strategies to reach zero deaths and fatalities. The project and program types listed below are expanded upon in the Project List and the Action Plan:

- » Capital projects are large, long-term infrastructure projects that require advanced design, engagement, coordination, and permitting. These projects may include mid-block pedestrian crossings, intersection improvements, and traffic calming.
- » Quickbuild projects typically have a shorter implementation timeframe and lower cost than capital projects due to their semi-permanent nature. These projects may include spot improvements such as signal timing adjustments, RRFB implementation, and intersection enhancements. Projects will typically have a community engagement component and will be focused on hot spot locations.
- » Policy updates may occur at the NVTA Board or local agency level. Policy related updates can include institutional improvements to design standards or reprioritizing funding to promote safety on Napa Valley roadways.
- » Community education is crucial, as Vision Zero's success is dependent on the community collectively reaching its goal. Every person that uses the roadway system is critical to its success and requires a paradigm shift in how we view and act on roadway safety. Education begins with the collective awareness around the severity of traffic deaths, educational campaigns to target the identified emphasis areas, and creating a culture that supports both policy and infrastructure changes related to safety.

Implementation of Plan-identifed projects and programs is a vital step in the process where identified strategies and projects are executed. To successfully implement programs and projects, partnerships, trust, funding and coordination need to be proactively managed. Successful implementation requires sustained and coordinated support from key stakeholders, elected officials, and NVTA staff.

Oversight, Accountability, Coordination, and Partnership

To ensure effective delivery of safety projects and programs, NVTA will establish a Traffic Safety Working Group that can be comprised from the Technical Advisory and Stakeholder Working Groups. Having the leadership of this group will be a crucial part of maintaining buy-in and support for Vision Zero from not only officials, but the community as well. Some duties of the working group could include conducting briefings and presentations at board and agency meetings, collecting, and sharing information on a regular basis, and updating a public-facing webpage on the NVTA website to inform Vision Zero goal progress, such as the number of projects funded or implemented and the number of collisions over time for comparison purposes.

Having continued communication and transparency with stakeholders and community members can allow for greater trust and support of the Plan's goals. Some other potential strategies include communication across diverse channels beyond the web (e.g. local news, mailers, and social media), actively soliciting and addressing community concerns, regularly publishing or updating more extensive factsheets on plan progress, and regular public meetings using effective community engagement techniques.

Much like the stakeholder input received throughout the creation of this Plan, coordination and partnership amongst diverse stakeholders will be essential for effective delivery of the Plan. Some strategies that the Working Group can implement include regularly informing leaders, community groups, and stakeholders on progress and key milestones, consulting partner agencies early on in the implementation process to gather suggestions and feedback, and ongoing monitoring and coordination of opportunities for partnership via project bundling (e.g. integrating Vision Zero projects with pavement resurfacing and maintenance).

Policy Support

Projects following the Safe System Approach may often require tradeoffs to be made between on-street parking, vehicle level of service, and pedestrian and bicycle safety and accessibility when funding and/or right of way are limited. NVTA's commitment to this Plan and its goals also establishes that safety considerations be prioritized in all projects throughout Napa Valley. However, the spirit of this overriding consideration must also be built into the day-to-day operations and decision-making of NVTA and its member agencies. Thus, as a follow-on to this Plan, NVTA will review its policies, plans, guidelines, and standards, and update them as necessary to align with the overarching goal of prioritizing safety, and support a Safe System practice. Other complementary policies to this Plan may include a best practices guide for a crosswalk policy or a speed management policy and program. Implementation of these revised policies, plans, guidelines, and standards will be a crucial accompaniment to the implementation strategies within this Plan.

Institutionalization

In addition to pursuing funding for the priority and systemic projects identified in this Plan via upcoming grant opportunities, consider reactive and project safety project opportunities through:

- » Rolling safety projects into existing Capital Improvement Projects by consolidating safety improvements with maintenance efforts such as roadway resurfacing can be cost efficienct and speed project implementation and delivery. Review the Capital Investment Plans under NVTA and Napa Valley cities and towns to align implementation with the goals and principles of this Plan.
- » Conducting Development Impact Review and Mitigation according to new guidance from the Institute of Transportation Engineers (ITE) that presents opportunities for bringing the Safe System approach into the development review process.

Evaluation Considerations

NVTA has committed to eliminating traffic deaths and severe injuries, and to form a standing Working Group to monitor progress towards this goal and communicate outcomes to the public. This section identifies possible opportunities to inform future decision-making and allows NVTA to understand how it is doing against the goal of reducing collisions and collision severity in each of its emphasis areas. To this effect, items in the Vision Zero Action Plan include a timeline of when the action would take place and performance targets to monitor implementation strategies and provide transparency on progress.

The following sections present some additional recommendations to this effect.

Identify Metrics and Measure Performance in Priority Areas

Progress toward achieving NVTA's traffic safety goals will be measured. Performance measures may include monitoring collisions specific to the goals outlined in this Plan and monitoring the number of safety infrastructure improvements installed. Additional regular measurement of goal progress in priority areas can be performed every year.

Safety report cards that are released annually can be a powerful tool for measuring effectiveness, highlighting areas that need further attention and resources, and identifying tasks and deadlines for responsible stakeholder parties. **Figure 24** shows an example of a safety scorecard from the City of Denver prepared by the Denver Streets Partnership.

Continued Engagement

Efforts around evaluation will include expanding partnership from diverse sources (e.g. officials, agencies, community advocacy groups). Input from identified partners and future partners, along with collected target metrics, could be used to adapt the plan based on community feedback and expert insight as projects and programs are rolled out.

Conducting pre- and post- surveys with community members can measure how their actions and views have shifted after engagement around traffic safety. Local partners can be tasked with disseminating the pre- and post-surveys to residents. Surveys would evaluate whether respondents express a shift in behavior after having participated in traffic safety programming. The metrics for evaluation can also be developed with local partners to improve accessibility for the public.

Update the Plan Regularly

Regular Plan updates can assist with organizing and directing evaluation efforts. As conditions within Napa Valley could change, it will be necessary to update the Plan in the future.

Figure 24

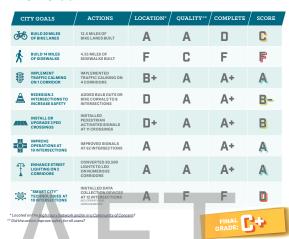
Denver Vision Zero Action Plan 2019 Progress Report Card





The Denver Streets Partnership issues this report card to honor the 70 people who died in traffic crashes on Denver's streets in 2019 and to hold our City leaders accountable to their Vision Zero commitment to eliminate traffic fatalities and serious injuries.

Denver did slightly better in 2019 compared to 2018 at meeting their goals for street safety improvements as outlined in the Vision Zero Action Plan. Notably, the City made significant progress on two types of improvements: corridor-level traffic caliming on 15th St. 17th St. 32nd Ave, and Park Ave; and street lighting enhancements throughout Denver. However, the City continued to fall well short of their goal to build 14 miles of new sidewalks, and also fell behind on their goal to build 20 miles of new bike lanes, after meeting this goal in 2018. The City also missed critical opportunities to make pedestrian crossing and intersection improvements along the High Injury Network.



Increase fines for parking in or blocking bike lanes.

This Report Card focuses specifically on Denver's progress on street safety improvements. Our current street system is dangerous by design, and the City will not achieve zero traffic fatalities or serious injuries without fundamental improvements.

What is Vision Zero and why does it matter? Denver's Vision Zero Action Plan aims to eliminate traffic fatalities and serious injuries by the year 2030, and outlines actions the City will take

in several areas to achieve this goal.



STREETS

Tragic and wholly preventable deaths can and must stop. It's time th Denver become a city where dangerous driving is simply not tolerated, on any street, at any time.

In addition to accelerating implementation of the street safety improvements highlighted in this Report Card, the DENVER STREETS PARTNERSHIP calls on city leaders to enact the following quick policy changes that will immediately make our streets safer:





CHARLES STREETS
PARTNERSHIP

The Deriver Streets Pertnership is a coulding of community organizations advocating for people friendly streets in Deriver.

Source: Denver Streets Partnership

Funding Considerations

Projects included in this Action Plan can be funded through a wide range of additional sources at the federal, state, and regional levels. The sources listed here may be used to fund a broad scope of projects targeting air quality and sustainability, affordable housing, and transportation. Successful projects often entail creative solutions that address impact areas beyond transportation safety alone.

Federal Sources

Community Development Block Grant (CDBG) Program

The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Communities often use CDBG funds to construct and repair streets and sidewalks.

Frequency Annual funding cycle

Congestion Mitigation and Air Quality (CMAQ) Improvement Program

The FAST Act continued the CMAQ program to provide a flexible funding source to State and local governments for transportation projects and programs to help meet the requirements of the Clean Air Act. Funding is available to reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter (nonattainment areas) and for former nonattainment areas that are now in compliance (maintenance areas).

Frequency Annual funding cycle

Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grant Program

This program supports projects that are "road or bridge projects eligible under title 23, United States Code;" and "intermodal projects." Previously the BUILD grant, this program replaces the TIGER program.

Frequency Annual funding cycle

Safe Streets for All (SS4A) Grant Program
The Safe Streets for All (SS4A) grant
program is a new Federal grant program
established by the Bipartisan Infrastructure
Law centered around the Department of
Transportation's National Roadway Safety
Strategy and its goal of zero deaths and
serious injuries on America's roadways. It
will provide \$5 billion in grant funding over
the next 5 years to develop and implement
Vision Zero safety plans. Current legislation
emphasizes funding of planning efforts,
but the focus on implementation funding
is expected to increase over the next few
years.



State Sources

Active Transportation Program (ATP)

ATP is a statewide competitive grant application process with the goal of encouraging increased use of active modes of transportation. The ATP consolidates existing federal and state transportation programs, including the Transportation Alternatives Program (TAP), Bicycle Transportation Account (BTA), and State Safe Routes to School (SRTS), into a single program with a focus to make California a national leader in active transportation. The ATP is administered by the Division of Local Assistance, Office of State Programs.

Frequency Biennial funding cycle

Clean California Grants

The Clean California Local Grant Program (CCLGP), operated by Caltrans, was created by AB 149 in 2021 to beautify and clean up local streets and roads, tribal lands, parks, pathways, transit centers, and other public spaces. The program will allocate \$296 million in state funds, in grants not to exceed \$5 million, to local and regional public agencies that install beautification measures and art in public spaces and remove litter and debris to enhance communities and improve spaces for walking and recreation. The goals of the CCLGP are to: reduce the amount of waste and debris within public rights-of-way, pathways, parks, transit centers, and other public spaces; enhance, rehabilitate, restore, or install measures to beautify and improve public spaces and mitigate the urban heat island effect; enhance public health, cultural connection, and community placemaking by improving public spaces for walking and recreation; and advance equity for underserved communities.

Frequency Three-year cycle

California Office of Traffic Safety (OTS) Grant Program

OTS administers traffic safety grants in the following areas: Alcohol Impaired Driving, Distracted Driving, Drug-Impaired Driving, Emergency Medical Services, Motorcycle Safety, Occupant Protection, Pedestrian and Bicycle Safety, Police Traffic Services, Public Relations, Advertising, and Roadway Safety and Traffic Records. This funding is primarily geared to enforcement and outreach efforts.

Frequency Annual funding cycle

California Natural Resources Agency Urban Greening Program

This program supports projects that "use natural systems or systems that mimic natural systems to achieve multiple benefits." Eligible projects include "Nonmotorized urban trails that provide safe routes for travel between residences, workplaces, commercial centers, and schools."

Frequency Biennial funding cycle

California Strategic Growth Council (SGC) Transformative Climate Communities (TCC) Program

The Transformative Climate Communities (TCC) Program empowers the communities most impacted by pollution to choose their own goals, strategies, and projects to reduce greenhouse gas emissions and local air pollution.

Frequency Annual funding cycle

Caltrans Strategic Partnerships Grants

These grants, a subset of Caltrans' Sustainable Transportation Planning Grant Program, fund multi-modal planning studies, with a focus on transit, of regional, interregional, and statewide significance. Studies are conducted in partnership with Caltrans and must assist in achieving the Caltrans Mission and Grant Program Objectives.

SB 1 Local Partnership Program (LPP)

The purpose of this program is to provide local and regional transportation agencies that have passed sales tax measures, developer fees, or other imposed transportation fees with a continuous appropriation of \$200 million annually from the Road Maintenance and Rehabilitation Account to fund road maintenance and rehabilitation, sound walls, and active transportation projects. There is also a competitive grant portion of this project.

Frequency Biennial funding cycle

SB 1 Local Streets and Roads Program (LSRP)

SB 1 dedicated approximately \$1.5 billion per year in new formula revenues apportioned by the State Controller to cities and counties for basic road maintenance, rehabilitation, and critical safety projects on the local streets and roads system.

Frequency Annual funding cycle

SB 1 Solutions for Congested Corridors Program (SCCP)

The Solutions for Congested Corridors
Program funds projects designed to
reduce congestion in highly traveled
and highly congested corridors. This
statewide, competitive program makes
\$250 million available annually for projects
that implement specific transportation
performance improvements and are
part of a comprehensive corridor plan by
providing more transportation choices
while preserving the character of local
communities and creating opportunities for
neighborhood enhancement.

Frequency Annual funding cycle

SB 1 State Transportation Improvement Program (STIP)

The State Transportation Improvement Program (STIP) is the biennial five-year plan for future allocations of certain state transportation funds for state highway improvements, intercity rail, and regional highway and transit improvements.

Frequency Biennial funding cycle

Highway Safety Improvement Program (HSIP)

California's Local HSIP focuses on infrastructure projects with nationally recognized crash reduction factors (CRFs). Local HSIP projects must be identified based on collision experience, collision potential, collision rate, or other data-supported means. There are opportunities to include systemic safety projects as well.

Frequency Biennial funding cycle

California Natural Resources Agency Environmental Enhancement and Mitigation (EEM) Program

This program supports projects that "contribute to mitigation of the environmental effects of transportation facilities." According to the program guidelines, projects that fall under the following category can apply: "Mitigation Projects Beyond the Scope of the Lead Agency responsible for assessing the environmental impact of the proposed transportation improvement."

Frequency Annual funding cycle

SGC Affordable Housing and Sustainable Communities (AHSC) Program

The Affordable Housing and Sustainable Communities (AHSC) Program makes it easier for Californians to drive less by making sure housing, jobs, and key destinations are accessible by walking, biking, and transit.



Local and Regional Sources

Measure T Funding

Administered through the NVTA, Measure T provides funding for reconstruction and rehabilitation of local streets and roads, and related transportation improvements such as sidewalks, ADA ramps, curbs, and gutters.

Frequency Apportioned annually by NVTA

Developer Fees

California law allows local governments to establish and charge a fee on residential and non-residential developments to fund public facilities and to service population growth. Public facility fees can be charged to new development based on density and traffic impacts, and can go towards a variety of public facilities, including local roadways.

Frequency Not applicable

Lifeline Transportation Program

The Metropolitan Transportation
Commission (MTC) has created the Lifeline
Transportation Program to evaluate state
and federal funds to provide grants for
mobility and accessibility needs in lowincome communities across the Bay
Area. New guidelines are established for
each cycle and the projects must address
transportation gaps or barriers identified in
community-based transportation plans or
other local planning efforts in low-income
neighborhoods.

Frequency Biennial funding cycle

One Bay Area Grant 3 (OBAG 3)

OBAG guides how MTC distributes \$375 million from the Federal Highway Administration (FHWA) between 2023-2026. Funding can be used for projects and programs that improve safety, spur economic development, and help the Bay Area meet climate change and air quality improvement goals.

Frequency Annual funding cycle

Program for Arterial System Synchronization (PASS)

PASS delivers financial and technical assistance to cities and counties to enhance signal coordination across jurisdictions. This includes engineering help for local governments seeking to re-time signals, adjustments to existing traffic-responsive timing systems, "flush" plans for managing traffic incidents, and more.

Frequency Annual funding cycle

Transportation Development Act Article 3 (TDA3) Funding

TDA3 provides funding annually for bicycle and pedestrian projects. Each county coordinates a consolidated annual request for projects to be funded in the county. Some counties competitively select projects, while other counties distribute the funds to jurisdictions based on population.

NISION ZERO

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7 Project Development and Strategies

A set of safety projects were identified through the collision and contextual data analysis and review of existing plans which are summarized in the previous chapters. Project selection also accounted for community and stakeholder feedback on areas of concern, the number of KSI collisions, and systemic analysis results. A full list of projects can be found in **Appendix B**.

This chapter outlines ten
Representative Projects selected
for further project development.
Each project summary includes a
description of the project, collision
trends, what collision profiles are
identified by this project, what mode
of travel this project targets, and an
estimated cost range, as shown in

Figure 25. The accompanying graphic identifies the extents of the project and the countermeasures proposed to address these safety trends.

As this Vision Zero Action Plan serves multiple jurisdictions and includes three that have adopted Local Road Safety Plans, regional coordination is imperative to achieving zero deaths and serious injuries on Napa Valley roadways. Improving safety throughout the Valley will not only require close coordination with neighboring agencies, but also with Caltrans to share and analyze data, implement infrastructure-related projects, education and enforcement efforts, and creating a collective culture of safety.

Project costs less than Figure 25 **\$\$\$\$** \$500,000 in 2023 dollars **Estimated Cost Ranges** Project costs between \$500,000 **\$\$\$\$** for Projects and \$1,500,000 in 2023 dollars Project costs between \$1,500,000 **\$\$\$\$** and \$3,000,000 in 2023 dollars Project costs greater than \$\$\$\$ \$3,000,000 in 2023 dollars



American Canyon Road East

from State Route 29 to Newell Drive

The eastern section of American Canyon Road, from State Route 29 to Newell Drive, connects those traveling on I-80 to the City of American Canyon and to SR 29. The segment from SR 29 to Newell Drive primarily serves residential units, but is also a connection to American Canyon High School in the north and Vallejo in the south. There is a Class II bike lane just east of the SR 29 intersection, but continuous bicycle facilities are not present along this section of American Canyon Road East.

With a posted speed limit of 40 miles per hour and average daily traffic of 19,800 vehicles per day, the improvements included as part of this project improves safety for pedestrians and bicyclists. Separated bikeways provide added protection between bicyclists and motorists, and protected intersections provide bicyclists with a dedicated path through the intersection, with right of way over turning motor vehicles. High visibility crosswalks help to make both the crosswalk and pedestrian more visible to motorists, and can even assist users in deciding where to cross.



35678

JURISDICTION American Canyon

MODE



ESTIMATED COST

\$\$\$\$

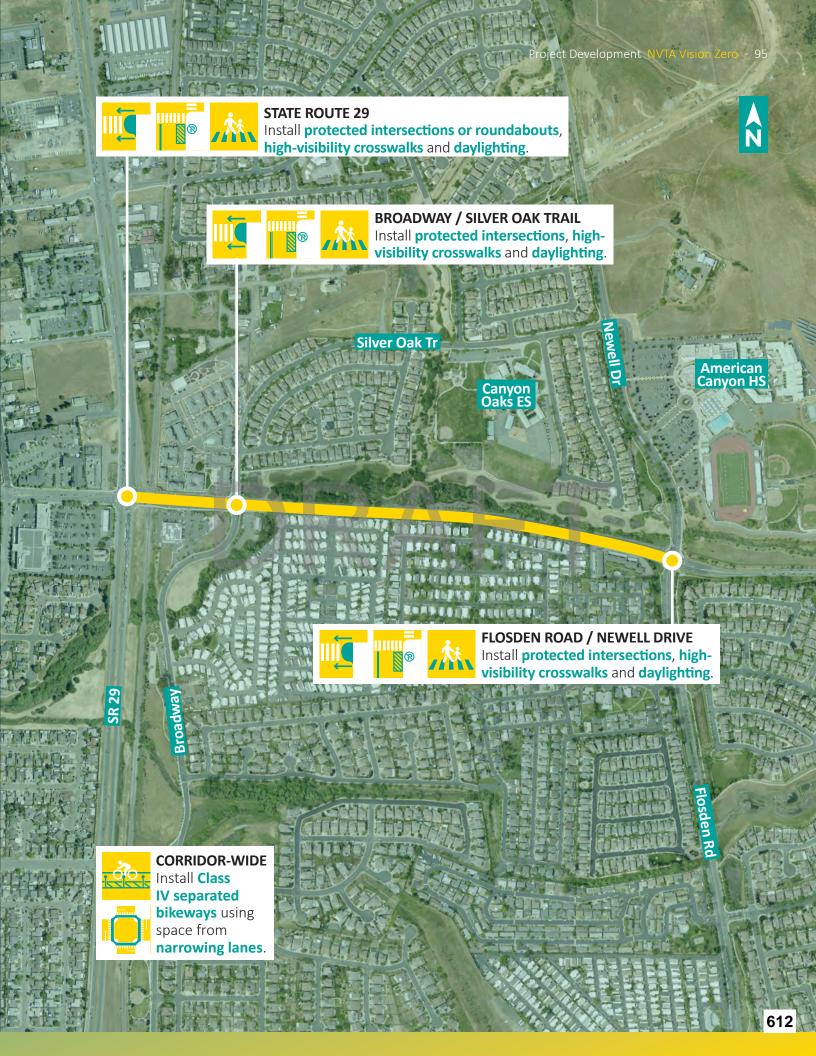
COLLISION HISTORY

injury collisions collisions

TIMELINE

ON HIN?

5-10 years Yes



Project 2 Lincoln Avenue from State Route 128 to Silverado Trail

Lincoln Avenue serves retail, restaurants, and hospitality uses in downtown Calistoga. Lincoln Avenue is co-signed as State Route 29, and the posted speed limit is 25 miles per hour. As such, Lincoln Avenue is unique in that its design currently complements a State Route rather than the main downtown corridor.

Creating a bikeable and walkable downtown area by slowing speeds and enhancing safety for non-motorized users invites both residents and visitors to take alternatives modes of travel. Design for the corridor would be adapted to encourage vehicle speeds of 20 or 25 MPH. This could include narrowing travel lanes with consistent edge lines to slow speeds, installing Class II bike lanes, and repainting parking to convert angled parking to parallel parking if right of way is needed, or converting front-in angle parking to back-in parking.

At the intersection of Silverado Trail, squaring up the intersection and installing a signal that includes audible countdown and LPIs would enhance pedestrian safety. Additionally, high visibility crosswalk markings, curb extentions, and daylighting should be added to all intersections. RRFBs would be installed at Myrtle Street and Fair Way, as they are gateway intersections into the City's downtown area.



35678910

JURISDICTION Calistoga

MODE

☆ ॐ

ESTIMATED COST

\$\$\$\$

COLLISION HISTORY

27
injury
collisions

KSI collisions

TIMELINE **5-10 years**

ON HIN?

Yes





State Route 128

from Cedar Street/Petrified Forest Road to Pine Street

State Route 128 (SR 128) has a posted speed limit of 35 miles per hour within the project area. This roadway primarily serves residential land uses, with restaurant and hospitality uses along the south side of SR 128. This segment is confined due to right of way constraints. However, slowing speeds is nonetheless essential for this roadway.

Recommendations for speed reduction along SR 128 include adding centerline deliniators at each intersection from Lillie Street to Pine Street and installing RRFBs at two to three location along this segment to increase pedestrian access and slow vehicle traffic flow. As a temporary measure, asphalt curbing berms along either side of the roadway should be installed to delineate sidewalks. As redevelopment or upgrades are made to land uses surrounding SR 128, the City could look for opportunities to install permanent sidewalk or off-street path facilities as part of those developments.

COLLISION PROFILES

35678910

JURISDICTION Calistoga

MODE

A

ESTIMATED COST

\$\$\$\$

COLLISION HISTORY

24 injury collisions

KSI collisions

TIMELINE

10+ years

ON HIN? Yes





Deer Park Road/ Sanitarium Road

The southern intersection of Deer Park Road and Sanitarium Road is located in a rural part of Napa County and has a posted speed limit of 35 miles per hour. Deer Park Road is given the free movement and those traveling westbound along Sanitarium Road yield to continue westbound or enter a median crossover to head eastbound. Additionally, Deer Park Road ascends a steep uphill grade just east of the junction, while Sanitarium Road descends a similar downward grade.

The Napa County LRSP recommends a one-lane roundabout at this intersection to improve safety, promote lower speeds, and reduce conflict points, which can also lead to improved operational performance. The installation of a roundabout would be supplemented with necessary signage and restriping of the roadway.

COLLISION PROFILES



JURISDICTION Napa County

MODE



ESTIMATED COST



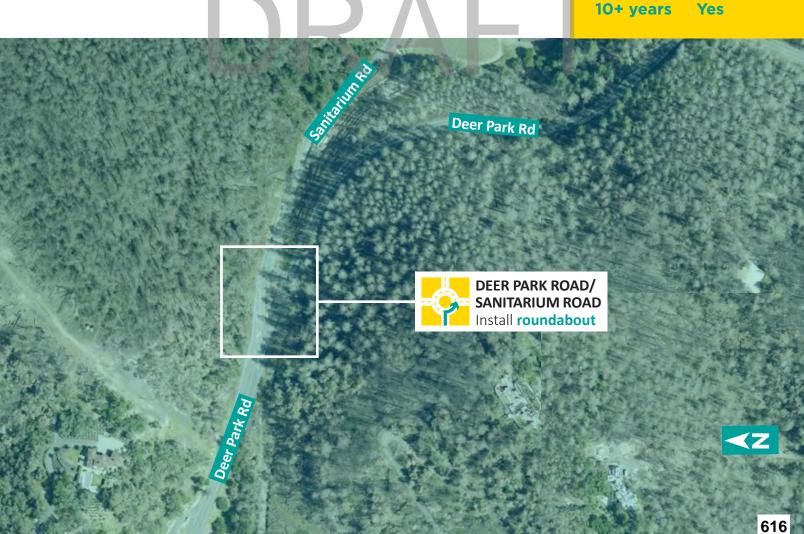
COLLISION HISTORY



injury collisions

TIMELINE ON HIN?

10+ years Yes





Howell Mountain Road

from White Cottage Road to Sunset Drive

Howell Mountain Road extends from Silverado Trail in the south to Pope Valley Road in the north. The roadway is rural, with winding curves, minimal intersection control, steep grades, and no shoulder due to vegetation along the roadway edge. Howell Mountain Road has a posted speed limit of 35 miles per hour, and 15-25 miles per hour along curves.

Upgrading signage and pavement markings and installing centerline rumble strips improves safety for motorists. The corridor is designated as a bike route. Class IIB buffered bike lanes (where feasible), "Bikes May Use Full Lane" signs at key locations, and green conflict striping at intersections can support safer separation in space and time for people biking.

The County is currently working on some upgrades through HSIP funding. Although this corridor is not identified on the HIN, the County identified Howell Mountain Road and Sunset Drive as a key intersection, and completed a systemic review to identify safety enhancements throughout the corridor.

COLLISION PROFILES

1345678

JURISDICTION Napa County

MODE

→ ॐ ★

ESTIMATED COST

\$\$\$\$

COLLISION HISTORY

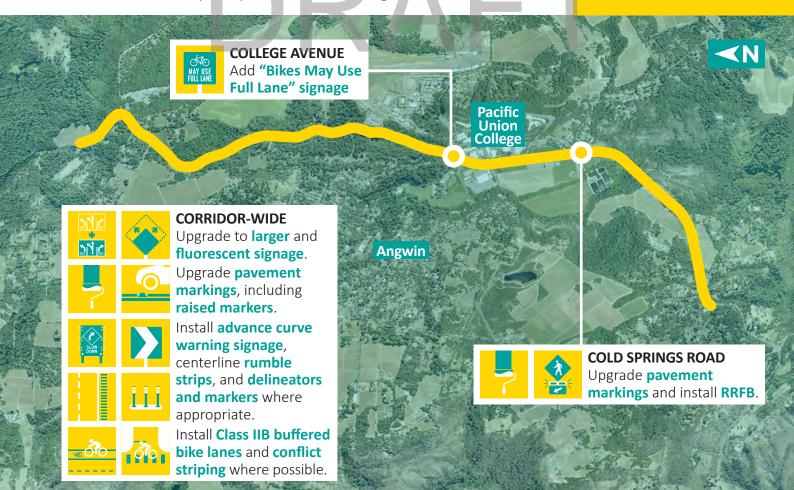
27
injury
collisions

KSI collisions

TIMELINE

1-5 years

ON HIN?



Project 6

Main Street

Downtown St. Helena from Pratt Avenue to Charter Oak Avenue

Main Street serves retail, restaurants, and hospitality uses in St. Helena. It is co-signed as State Route 29 (SR 29) and State Route 128 (SR 128), and the posted speed limit is 25 miles per hour. Main Street is unique in that there are driveways very closely spaced throughout the study area, and there are railroad tracks along the east side of the roadway near the south end.

The lively downtown area and residential uses at the north end of the segment promotes walkability. Striping high visibility crossings, upgrading the sidewalk to included ADA compliant curb ramps, and installing curb extensions enhance pedestrian safety along the corridor. Part of this project is already funded through MTC'S OBAG3 funding and the Community Development Block Grant.

COLLISION PROFILES

356710

JURISDICTION St. Helena

MODE



ESTIMATED COST

\$\$\$\$

COLLISION HISTORY

58

KS

injury collisions KSI collisions

TIMELINE

ON HIN?





Trancas Street/ Redwood Road

from Dry Creek Road to the Napa River

Redwood Road and Trancas Street are a major east-west corridor through the City of Napa. It serves residential, institutional, retail, and agricultural land uses along the corrdior. The roadway varies between four to five lanes and has a posted speed limit of 30-50 miles per hour. Along Redwood Road near Carol Drive, the posted speed limit is 25 miles per hour when children are present. Redwood Road is also a designated truck route, and there are two roadways that parallel SR 29 and are often used for cut through traffic: Dry Creek Road and Linda Vista Avenue.

With high volumes, bicycle and pedestrian safety is critical along this roadway. Installing sidewalk where gaps are present, upgrading ramps to be ADA compliant, installing raised pavement markers and high visibility markings on crosswalks, and upgrading signals to include Leading Pedestrian Intervals (LPIs) and audible signals with countdowns provide enhanced comfort for non-motorized users. As Redwood Road features more residential land uses, on-street parking should remain on both sides, but the roadway cross-section would include separated bike lanes in both directions, one through lane in each direction, and a center two-way left turn lane.

Protected intersections improves the visiblity of both pedestrians and bicyclists, and are recommended at Solano Avenue, California Boulevard, Jefferson Street, and Soscol Avenue/Big Ranch Road. A study would identify if a road diet or other safety enhancements is feasible along the segment between Carol Drive to the eastern city limits.

COLLISION PROFILES

35678

JURISDICTION

City of Napa

MODE

→ →

ESTIMATED COST

\$\$\$\$

COLLISION HISTORY

139 injury collisions

5 KSI collisions

TIMELINE **5-10 years**

ON HIN?

rs Yes





Road diet to three lanes, with one vehicle lane in each direction and a center turn lane, Class IIB buffered bike lanes, and parallel parking on both sides.





DRY CREEK ROAD

Close or reconfigure slip lane and implement all-way stop control.





MACLEOD STREET

Install **RRFB** with pedestrian **median refuge**.





YOUNG AVENUE

Install **RRFB** with pedestrian **median refuge**.



LINDA VISTA AVENUE TO CAROL DRIVE Close sidewalk gaps on the south side.



CAROL DRIVE TO SOLANO AVENUE

Feasibility study for road diet.



CALIFORNIA
BOULEVARD
Install protected
intersection.





LINDA VISTA AVENUE Implement LPI. Install

pedestrian countdown timers, audible push buttons to signals, retroflective tape on signal heads, and edge lines. Trim vegetation to improve sightlines.





Implement LPI. Install protected intersection, audible push buttons to signals, pedestrian countdown timers, advanced stop bars, and wayfinding to and from the Vine Trail.





CORRIDOR-WIDE

Straighten crosswalks and upgrade to high-visibility marking and bi-directional, ADA-compliant curb ramps. Convert pavement markers to high-visibility pavement markings. Install bike conflict striping, delineators and object markers, and speed feedback signs. Upgrade to fluorescent signage.













SOLANO AVENUE
TO SOSCOL AVENUE

JEFFERSON STREET

Install **protected**

intersection.

Install Class IV separated bikeways using space from narrowing lanes.





SOSCOL AVENUE Install protected intersection.

Project 8

Soscol Avenue

from Trancas Street to Imola Avenue

Soscol Avenue, also designated as SR 121/221 at the southern end, serves as one of two main gateways into the City of Napa. It differs from other neighborhoods in the City because it primarily serves commercial land uses with small pockets of residential areas. The intersection of Soscol Avenue and Imola Avenue is home to the Napa State Hospital, Napa Valley College Housing, and the South Napa Marketplace. Imola Avenue is also designated as SR 121. The central part of Soscol Avenue has several car dealerships and the South Napa Marketplace. At the north end of the corridor are various retail uses and multifamily housing.

As a multi-use corridor, Soscol Avenue needs to serve all roadway users. Improvements to the roadway system include closing slip lanes to remove additional motor vehicle conflict points, restriping narrower vehicle lanes to accomodate Class IV separated bikeways, and installing protected intersections where feasible. Other enhacements include upgrading signage, striping high visibility crosswalks, installing Pedestrian Hybrid Beacons (PHBs), and striping bike conflict markings to make bicyclists more visible to motorists at areas like driveways, bus stops, and at intersections.

COLLISION PROFILES

35678

JURISDICTION

City of Napa

MODE

₹

ESTIMATED COST

\$\$\$\$

COLLISION HISTORY

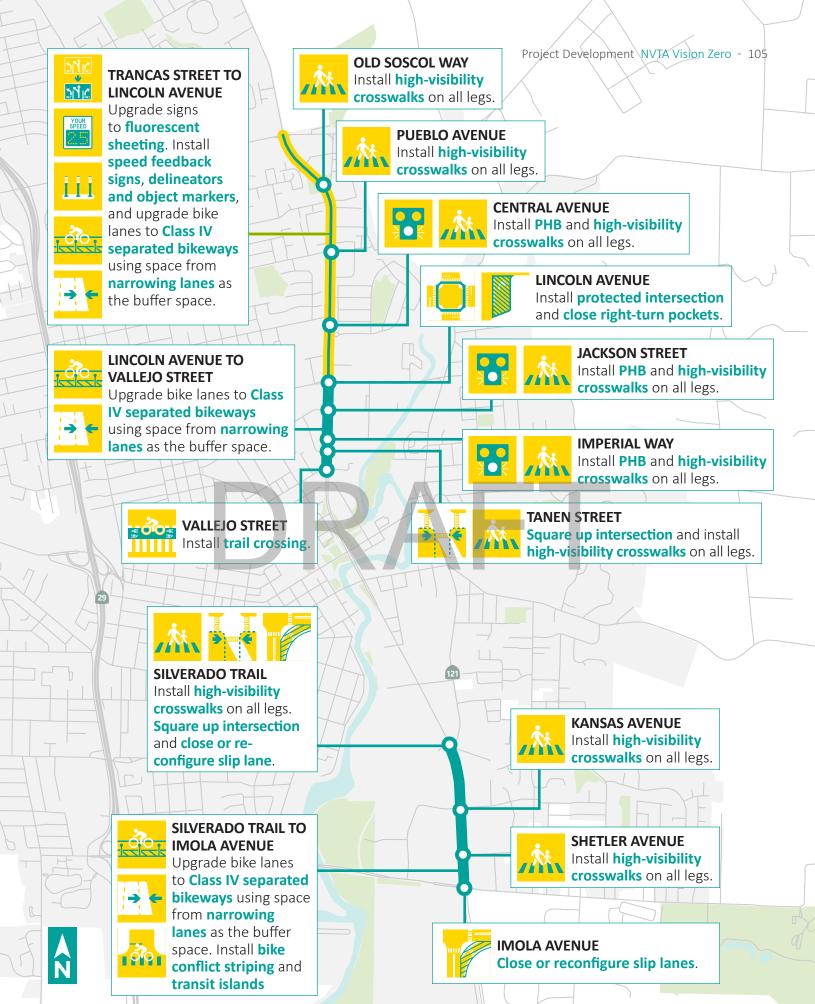
174
injury
collisions

15 KSI collisions

TIMELINE

ON HIN?

5-10 years Yes





Finnell Road serves various commercial, community, and residential uses. The Town of Yountville has recently implemented active transportation enhancements such as installing sidewalk, striping high-visibility crossings at Vista Drive and Heritage Way, and installing Class II bike lanes east of the bridge.

To build upon the Town's efforts, there are enhancements that can be made along this roadway to improve pedestrian and bicycle safety and reduce motor vehicle speeds. Installing bulbouts, removing parking, and painting red curb at intersections and crosswalks to daylight the intersection improves visibility of pedestrians and bicyclists for motorists. Creating continous sidewalk along both sides of the roadway or installing a crosswalk where sidewalk cannot be continued is also recommended.

COLLISION PROFILES

678

JURISDICTION **Yountville**

MODE

₹

ESTIMATED COST

\$\$\$\$

COLLISION HISTORY

injury collisions

TIMELINE

ON HIN? Yes



State Route 29/ Madison Street

Madison Street is one of just two gateways into the Town of Yountville. Just to the north of Madison Street lies numerous wineries and restaurants served by State Route 29, which becomes a controlled-access freeway just south of the intersection and has a fully grade-separated interchange with California Street. The rapid change in character of State Route 29 in this stretch is challenging, especially for northbound motorists, and leads to high instances of speeding and rear-end collisions.

In the near term, split phasing could be implemented along with roadway reconfigurations that include an acceleration lane on the south leg for the southbound direction and westbound reconfiguration to include a dedicated left and right lane, and a shared through-left lane. However, roundabouts prove to have high safety benefits as the number of conflict points are reduced, vehicle speeds are slowed, and vehicle change in trajectory is changed, therefore reducing kinetic energy. Roundabouts are also known to not sacrifice vehicle throughput. A near term recommendation can also include a two-lane roundabout feasibility study. This study would include an environmental study, and future plans for NVTA would be to apply for implementation funding for right-of-way acquisition and construction.





NISION VISION ZERO

DRAFT

8

Reaching Zero Traffic Deaths: A Vision Zero Action Plan

The NVTA Vision Zero Action Plan requires partnerships and collaboration across various jurisdictions, with local organizations, and with the community to be successful. Several strategies have been identified, along with the party/parties responsible for leading and supporting the action. A timeline for implementation is provided, as well as performance metrics. These actions should be periodically revisited, and actions that are successful may be expanded; actions that are not successful will be eliminated and replaced with other strategies. As conditions and strategies evolve, the strategies and supporting elements will evolve as well.

To promote an integrated approach for implementation, evaluation, and funding, the Action Plan is organized around the five Safe System elements: Safe Roads, Safe Road Users, Safe Speeds, Safe Vehicles, and Post-Crash Care. The recommendations included in each category may overlap between the elements; these overlaps create redundancy in the Plan approach and supports the goal of reaching zero deaths and serious injuries on roadways within Napa Valley.



How to Read This Action Plan





Safe Roads

Humans make mistakes, and we must design and operate roadways to accommodate these mistakes. A Safe System creates redundancy in the network to accommodate human mistakes and reduce the severity of crashes when they inevitably occur.

Strategy 1

Prioritize safety improvements on the HIN



Prioritize and implement safety treatments along the HIN that respond to the identified Emphasis Areas. Roadways with a similar typology should be identified for proactive and systemic improvements.

Timeline

Near-term

Lead Agency

» Member Agency Public Works Department

Supporting Partners

- » NVTA
- » Caltrans

Evaluat on Framework

- » Near Term: Weave improvements into ongoing or planned projects
- » Mid Term: Identify funding to implement safety treatments

1B

Reevaluate currently-funded general road projects and potentially reallocate funds to prioritize high priority locations identified in the Action Plan, adding safety improvements to project scopes.

Timeline

Ongoing

Lead Agency

- » County Board of Supervisors
- » Member Agency Public Works Department
- » Member Agency Councils

Supporting Partners

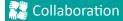
» NVTA

Evaluation Framework

Review current capital improvements plans and strategically develop future plans to create opportunities for safety improvements with typical CIP projects.

Implementation Needs







Evaluation Input

Emphasis Areas/HIN



1C

All projects should be designed to include separation of vulnerable road users in support of reduction in impact severity.

Timeline Ongoing

Lead Agency

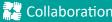
- » Member Agency Public Works Department
- » NVTA

Evaluation Framework

Review all pipeline projects to include designs that separate vulnerable road users from vehicles. Implement a strategy for each agency to commit to a Safe System focused design review for each engineering project.

Implementation Needs





Evaluation Input

Policy Evaluation





Safe Roads

Strategy 2

Update roadway design standards and policies for implementation of safety related projects

2A

Implement quick build projects to gather community feedback.

Timeline Medium-term

Lead Agency

- » NVTA
- » Member agency Public Works Department

Evaluation Framework

- » Near-term: Review State Law and City codes to adopt policy around quick build projects.
- » Medium-term: Roll out of safety projects as quick builds to gather public and stakeholder feedback and make improvements and/or adjustments before a permanent project is put in place.

Implementation Needs









Evaluation Input





2B

Bundle projects that are similar in scope to reduce costs and increase the efficiency of public outreach and engagement.

Timeline Ongoing

Lead Agency

» Member agency Planning Departments » Member agency Public Works Departments

Supporting Partners

» NVTA

Evaluation Framework

Prioritize projects along the HIN that are similar in nature.

Implementation Needs







Evaluation Input

Rublic Feedback



2C

Integrate safety projects into Public Works Department's regular maintenance.

Timeline Ongoing

Lead Agency

Member agency Public Works Departments

Supporting Partners

» NVTA

Evaluation Framework

Create new standards for typical maintenance that reflect the Vision Zero goals.

Implementation Needs

Staff Capacity

Evaluation Input

Policy Evaluation

2D

Update roadway design standards to create flexibility and push innovation with a Safe System lens in mind.

Timeline Ongoing

Lead Agency

Member agency Public Works Departments

Supporting Partners

» NVTA

Evaluation Framework

- » Near-term: Use quick build projects to test and receive feedback on design standards.
- » Medium-term: Develop and adopt contextsensitive design guidance and standards.

Implementation Needs





Evaluation Input

Public Feedback



Policy Evaluation



Safe Roads

Strategy 2

Update roadway design standards and policies for implementation of safety-related projects

2E

Create an internal training program for engineering and planning staff to stay up to date on best practices in Vision Zero, Complete Streets, and Design Standards.

Timeline

Medium-term

Lead Agency

» NVTA

Supporting Partners

Member agency Public Works Departments

Evaluation Framework

Establish consistent and recurring trainings with people from each member agency to keep up to date on best practices.

Implementation Needs



Evaluation Input

Emphasis Areas/HIN



Strategy 3

Improve roadway and street-scale lighting

3A

Develop a strategy to update roadway, intersection, and pedestrian crossing lights with high quality light sources (i.e. LED) while minimizing impacts.

Timeline

Medium-term

Lead Agency

» Member agency Public Works Departments

Supporting Partners

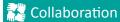
» NVTA

Evaluation Framework

Create new standards for typical maintenance that reflect the Vision Zero goals.

Implementation Needs







Evaluation Input

Rublic Feedback

Emphasis Areas/HIN



Strategy 4

Enable coordination across agencies and departments for project prioritization, implementation, funding, and maintenance

4A

Coordinate quarterly meetings with member agencies to coordinate on federal, state, regional, and local funding opportunities.

Timeline Ongoing

Lead Agency

» NVTA

Supporting Partners

- » Member agency Public Works Departments
- » Member agency Planning Departments

Evaluat on Framework

Identify staff from Member Agencies to attend and execute quarterly meetings focused on safety funding opportunities.

Implementation Needs



Evaluation Input

Public Feedback



Policy Evaluation

4B

Prioritize safety criteria in local funding decision making process, consistent with federal, state, regional funding requirements.

Timeline Ongoing

Lead Agency

» NVTA

Supporting Partners

- » Member agency Public Works Departments
- » Member agency Planning Departments

Evaluation Framework

- » Near-term: Prepare Guidance on the decision-making process where projects located on the HIN or other safety enhancements can play a larger role in prioritization
- » Medium-term: Increase transparency and update data on the Data Dashboard regularly

Implementation Needs

Staff Capacity

Evaluation Input

Emphasis Areas/HIN

Policy Evaluation



Safe Road Users

Reducing fatalities and serious injuries means improved safety for all road users, or all ages and abilities. Recommendations for Safe Road Users include public education campaigns around traffic safety and integrating quick build projects into Regular Public Works Department maintenance or bundling projects across agencies to create a safer and cohesive network.

Strategy 5

Prioritize disadvantaged communities and people who have fewer mobility choices



Establish guidance around clearly designating established pedestrian priority areas or activity center with elements such as public art, benches, and shade.

Timeline

Medium-term

Lead Agency

» Economic Development Departments

Supporting Partners

» Napa County Public Health Department

Evaluat on Framework

Partner with community-based organizations (CBOs) and Public Health Department to identify pedestrian activity areas using crash data and typology. Work with local artists to create murals or installations.

Implementation Needs







Evaluation Input

nublic Feedback

5B

Develop a driver, bicyclist, and pedestrian safety campaign focused on those over the age of 60.

Timeline

Medium-term

Lead Agency

» Napa County Public Health Department

Supporting Partners

» NVTA

Evaluation Framework

Partner with community-based organizations (CBOs) focused on senior livability and identify Emphasis Areas.

Implementation Needs









5C

Develop an equity framework to guide and evaluate transportation planning and investments.

Timeline

Near-term

Lead Agency

» NVTA

Supporting Partners

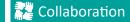
» Member agency Capital Improvement Groups

Evaluation Framework

Create guidance or a framework to prioritize and evaluate impacts of transportation projects in disadvantaged communities.

Implementation Needs







Evaluation Input

Policy Evaluation





Safe Road Users

Strategy 6

Engage people in disadvantaged communities in transportation planning



Develop an equitable engagement strategy for transportation safety-related projects that include multilingual options and consider cultural differences.

Timeline Near-term

Lead Agency

» NVTA

Supporting Partners

- » Member agency Public Works Departments
- » Member agency Planning Departments

Evaluation Framework

Create a plan that uses national examples of Vision Zero related equitable engagement strategies that includes types of outreach and thresholds for evaluation.

Implementation Needs





Evacuation Input



6B

Establish a Vision Zero Community Committee to support projects through all phases of development and build a trusted relationship with community leaders in disadvantaged communities.

Timeline Ongoing

Lead Agency

» NVTA

Supporting Partners

- » Member agency Public Works Departments
- » Member agency Planning Departments

Evaluation Framework

Establish clear and on-going communication with community leaders through a Committee (elected officials, member agency staff). Identify when the Committee meets (quarterly, bi-annually, etc.).

Implementation Needs





Evacuation Input

Public Feedback



Strategy 7

Educate all roadway users



Develop a Vision Zero educational campaign.

Timeline Near-term

Lead Agency

» NVTA

Supporting Partners

- » Member agency Public Works Departments
- » Member agency Planning Departments
- » Napa County Public Health Department

Evaluation Framework

Work to create an educational campaign with key stakeholders that target all audiences and educate all roadway users on the Safe System Approach and the goals and priorities of the Vision Zero Action Plan.

Implementation Needs







Evaluation Input



Public Feedback

7B

Utilize the data dashboard and project website to provide bi-annual progress updates on Vision Zero safety implementation.

Timeline Ongoing

Lead Agency

» NVTA

Supporting Partners

- » Member agency Public Works Departments
- » Member agency Planning Departments

Evaluat on Framework

Annual updates on Plan project implementation and crash data to provide transparency on progress.

Implementation Needs



Evaluation Input

Emphasis Areas/HIN



Safe Road Users

Strategy 8

Educate all roadway users

8C

Establish a program led by the member agency police departments, using OTS funding as a source, to promote safe biking through educational campaigns and providing safety equipment (helmets, lights, etc.).

Timeline Medium-term

Lead Agency

- » NVTA
- » Member agency Police Departments
- » Napa County Bicycle Coalition

Evaluation Framework

Create safety education campaigns and identify where and how many people received safety equipment.

Implementation Needs





8E

Establish a Vision Zero Task Force responsible for implementing the multiagency nature of the Action Plan.

Timeline Onging

Lead Agency

- » NVTA
- » Stakeholder and Technical Advisory Working Group

8D

When completing an update for the Vision Zero Action Plan update, release the attitudinal survey to identify if community perceptions have changed.

Timeline Medium-term

Lead Agency

» NVTA

Evaluation Framework

Develop an updated attitudinal survey to use community feedback as a metric on how safety has shifted in Napa Valley.

Implementation Needs



Evaluation Input

Public Feedback

Evaluation Framework

Create a standing task force that meets quarterly focused on implementation and decision-making for projects and programs.

Implementation Needs





8F

Develop a workshop for media outlets on how to best communicate traffic crashes and roadway safety to the public.

Timeline Medium-term

Lead Agency

» LEO

Supporting Partners

- » Member agency Police Departments
- » California Highway Patrol (CHP)

Evaluation Framework

Develop a workshop for media outlets to attend annually that focuses on language around crashes and roadway safety.

Implementation Needs







Evaluation Input



Public Feedback

8G

Develop an education campaign targeting specific behaviors identified by the emphasis areas along the HIN.

Timeline Near-term

Lead Agency

- » Member agency Police Departments
- » California Highway Patrol (CHP)

Supporting Partners

» NVTA

Evaluation Framework

Develop a targeted campaign around the emphasis areas through various promotional outlets.

Implementation Needs







Evaluation Input

Rublic Feedback





Safe Road Users

Strategy 9

Reduce DUI-related crashes

9A

Work with local businesses to offer overnight parking around restaurants, bars, and entertainment venues.

Timeline Near-term

Lead Agency

» Member Agency Parking Enforcement

Supporting Partners

- » Napa County Public Health Department
- » Local businesses

Evaluation Framework

Partner with local businesses to identify locations to allow vehicles to park overnight, focusing on areas with high DUI-related crashes.

Implementation Needs

Staff Capacity



Evaluation Input

Public Feedback

Emphasis Areas/HIN

9B

Create programs for additional transit service during holidays, festivals, large events, etc. that include promotional and proactive campaigns, schedules, and rates for fare purchases.

Timeline Near-term

Lead Agency

» NVTA (with Event Sponsorship)

Evaluation Framework

Identify events or times of year with highest rates of DUI-related collisions and offer free or subsidized transit fares, or partner with a private sponsor (e.g. event host, beverage company) to offer safe rides home.

Implementation Needs

Funding



Staff Capacity

Evaluation Input

Rublic Feedback

Emphasis Areas/HIN



DR





() Safe Speeds

Reducing speed in the presence of vulnerable users is a key Safe System strategy. Reducing speeds reduces the kinetic energy transfer between vehicles and the human body. It also provides additional time for drivers to react and improves visibility for vulnerable road users.

Strategy 10

Reduce speeds through policy and design



For members agencies that have not gone through the process in the last year, update traffic calming programs to prioritize the HIN.

Timeline Medium-term

Lead Agency

- » Member agency Public Works Departments
- » Member agency Planning Departments

Evaluation Framework

- » Identify and evaluate national best practices for traffic calming programs with a focus on Vision Zero cities
- » Reevaluate documentation around speed limit setting based on guidance from the latest CA MUTCD
- » Update the traffic calming program with a greater focus on proactive improvements

Implementation Needs



Evaluation Input

Public Feedback

Emphasis Areas/HIN

Policy Evaluation

10B

In areas with high concentration of pedestrians, bicyclists, children, or elderly, prohibit right turn on red where feasible for additional safety or adjust signal phasing to accommodate right turn movements with other phases.

Timeline

Medium-term

Lead Agency

» Member agency Public Works Departments

Evaluation Framework

Prepare guidance and identify priority locations included on the HIN that would benefit from longer cycle lengths for vulnerable roadway users.

Implementation Needs



Evaluation Input

Public Feedback

Emphasis Areas/HIN

Policy Evaluation



10C

As part of the Design Standards update in the Safe Roads Strategy 2, include countermeasures and best practices for speed management.

Timeline Medium-term

Lead Agency

- » Member agency Public Works Departments
- » Member agency Planning Departments
- » Caltrans

Evaluation Framework

Develop context-sensitive design guidance and standards to include in an agency's Design Standards.

Implementation Needs



Evaluation Input



Emphasis Areas/HIN

Policy Evaluation

10D

Reevaluate speed limits along the HIN to determine if any are candidates for speed limit reductions based on the updated CA MUTCD.

Timeline Near-term

Lead Agency

- » Member agency Public Works Departments
- » Caltrans

Evaluation Framework

Each member agency completes an Engi-neering and Traffic Survey for roadways located on the HIN to determine if speed reduction is warranted.

Implementation Needs

Staff Capacity Collaboration

Evaluation Input

Public Feedback

Emphasis Areas/HIN

10E

Roll out Valley-wide engineering strategy that changes the roadway landscape to intentionally slow or manage vehicle speeds.

Timeline Medium-term

Lead Agency

» NVTA Technical Advisory Committee

Supporing Partners

Member agency Public Works Departments

Evaluation Framework

Develop a strategy with member agency support to identify where it's feasible to implement roundabouts, road diets, signal progression, etc. Strategy may have phases, where quick build occurs prior to full buildout.



() Safe Speeds

Strategy 11

Rethinking enforcement



Support legislation to allow the use of speed safety cameras to allow for more equitable enforcement.

Timeline Ongoing

Lead Agency

- » NVTA
- » Member agency Planning Departments

Evaluation Framework

Monitor and participate in lobbying efforts in support of speed safety cameras in California.

Implementation Needs







Evaluation Input





11B

Increase the use of speed feedback signs along HIN corridors and have an accompanying plan for maintenance of signs.

Timeline Near-term

Lead Agency

» Member agency Public Works Departments

Evaluation Framework

Prioritize roadways along the HIN with speedrelated concerns or are designed to accommodate higher speeds.

Implementation Needs

Funding

Staff Capacity

Evaluation Input

Public Feedback

Emphasis Areas/HIN



11C

Identify equitable fine structures for minor traffic infractions with an identified and agreed upon baseline for all Napa Valley Agencies.

Timeline Medium-term

Lead Agency

- » CHP
- » Member agency Planning Departments

Evaluation Framework

Evaluate national programs that focus on equitable fine structures and/or establish policies that replaces fines with community service, driver education, etc.

Implementation Needs







Evaluation Input

Policy Evaluation





Vehicle technology is constantly evolving and improving. NVTA and Member Agencies can continue to monitor latest regulations around vehicle design, and create policies around vehicles to minimize severity of crashes and incorporate safety measures using the latest technologies. Recommendations also include incorporating safety devices into the NVTA's transit fleets.

Strategy 12

Improve Safety Technology on Public-Owned Vehicle Fleets

Create a plan that identifies how NVTA will continue to monitor and employ safe technology such as Mobileye.

Mobileye incorporates comprehensive real-time visual and audible warning and alerts through a single forward-facing vision sensor.

Timeline Medium-term

Lead Agency

» Member agencies with large fleet vehicles

Evaluation Framework Annually monitor near-miss or collision incidents. Identify baseline and if incidents increase, Vision Zero Committee should identify strategies to reduce incidents.

Implementation Needs







Evaluation Input



Strategy 13

Explore Partnerships with Microtransit Service Providers

Continue partnerships with micro transit service providers to enable alternative safe modes of travel for late night events or special event services.

Timeline

Medium-term

Lead Agency

» NVTA

Evaluation Framework

Identify partnerships and identify funding for micro transit service providers. Ridership details from these company show an increase in person use.

Implementation Needs



Evaluation Input
Policy Evaluation



Post Crash Care

Post-Crash Care is more than just medical care. It also includes the training of personnel, design of emergency vehicles and roadway infrastructure, reviewing crash data, and providing additional resources to victims and their families.

Strategy 14

Identify opportunities for data-driven transparency, and accountability.



Conduct and prepare an annual crash analysis, and periodically update the HIN and Action Plan.



» Member Agency Planning Department

Evaluat on Framework

Annual updates should include crash profiles and comparison of various time periods to better identify trends and progress toward Vision Zero. Analysis should layer available demographic and environmental justice data. Update to the HIN should reflect progress being made to develop new strategies if current actions are not achieving the desired results.

Implementat on Needs



Evaluation Input

Rublic Feedback

Emphasis Areas/HIN

14B

Leverage technology to better understand core collision factors and surrogate safety measures.

Timeline Near-term

Lead Agency

NVTA

Supporting Partners

- » Member agency Public Works Departments
- » Member agency Planning Department

Evaluation Framework

NVTA identify ways to incorporate and maintain a database for data collection of automated speed data, near-miss analysis, hard breaking hot spots, and hazard/community feedback.

Implementation Needs



Evaluation Input

Public Feedback



14C

Maintain the Data Dashboard for increased transparency of crash data and findings

Timeline

Near-term

Lead Agency

» NVTA

Evaluation Framework

Identify who/what department is responsible for maintaining the Data Dashboard and prepare annual updates to track progress.

Implementation Needs



Evaluation Input



Public Feedback



NISION ZERO

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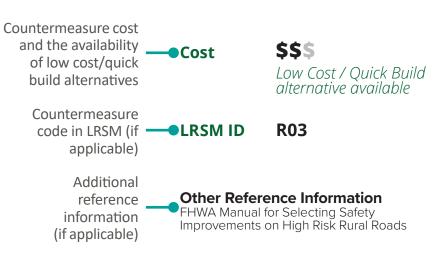
Appendix A

Engineering Countermeasures Toolbox

The following appendix presents a set of candidate tools for improving transportation safety in Napa Valley. Many of these countermeasures are recommended for the ten collision profiles of emphasis included in this report. Most of the countermeasures are included in the 2020 Caltrans Local Roadway Safety Manual (LRSM) and can be advantageous for use in Caltrans Highway Safety Improvement Program (HSIP) grant funding applications. There are many effective safety countermeasures beyond those listed in the LRSM, and several are included in this toolbox.

Countermeasure Icon Countermeasure Title Countermeasure Description Barrier in the center of the roadway that physically separates opposing vehicular traffic. Median barriers can also help control access to and from side streets and driveways, reducing

What You'll See in This Toolbox



conflict points.



Bicycle Crossing (Solid Green Paint)

Solid green paint across an intersection that signifies the path of the bicycle crossing. Increases visibility and safety of bicyclists traveling through an intersection.

Cost



Low Cost / Quick Build alternative available

DRAFT

BIKEWAYS



Bicycle Ramp

Connects bicyclists from the road to the sidewalk or a shared use path.

Cost





Bicycle Signal/ Exclusive Bike Phase

A traffic signal directing bicycle traffic across an intersection. Separates bicycle movements from conflicting motor vehicle, bus, transit, rail, or pedestrian movements. May be applicable for Class IV facilities when the bikeway is brought up to the intersection.

Cost

\$\$\$

BIKEWAYS



Bike Box

A designated area at the head of a traffic lane at a signalized intersection that provides bicyclists with a safe and visible way to get ahead of queuing traffic during the red signal phase.

Cost



Low Cost / Quick Build alternative available

LRSM ID S20PB



Bike Detection

Bike detection is used at signalized intersections, either through use of push-buttons, in-pavement loops, or by video or infrared cameras, to call a green light for bicyclists and reduce delay for bicycle travel. Discourages red light running by bicyclists and increases convenience of bicycling.

Cost

\$\$

ŊRAET

BIKEWAYS



Bike-Friendly Drain

Bike friendly drains avoid placing grating in the right-of-way that may pose a hazard to bicyclists by increasing their risk of falling.

Cost

\$\$



Bike Lane

A bike lane provides dedicated street space, typically adjacent to outer vehicle travel lanes, with designated lane markings, pavement legends, and signage. Bike lanes improve safety by reducing conflicts between bicycles and vehicles on the road and by creating a road-narrowing effect with buffers or vertical barriers, which may reduce vehicle speeds.

Cost



Low Cost / Quick Build alternative available

LRSM ID

R32PB

BIKEWAYS



Extend Bike Lane to Intersection

In locations where a bike lane is dropped due to the addition of a right turn pocket, the intersection approach may be restriped to allow for bicyclists to move to the left side of right turning vehicles ahead of reaching the intersection.

Cost



Low Cost / Quick Build alternative available



Floating Transit Island

An in-street transit boarding island is used in conjunction with a Class IV bike facility, separating transit traffic from bicycle traffic, reducing conflict between the two modes, and lowering the risk of collision.

Cost



Low Cost / Quick Build alternative available

DRAFCOST

BIKEWAYS



Green Conflict Striping

Green conflict striping is green markings painted in a dashed pattern on bike lanes approaching an intersection and/or going through an intersection. Green conflict striping improves safety by increasing the visibility bicyclists and identifying potential conflict points so bicyclists and motorists use caution when traveling toward and through an intersection.

Low Cost / Quick Build alternative available



Separated Bikeway

A separated bikeway provides dedicated street space, typically adjacent to outer vehicle travel lanes, with physical vertical separation from vehicle traffic, designated lane markings, pavement legends, and signage. Physical separation may consist of plastic posts, parked vehicles, or a curb. Separated bikeways improve safety by reducing conflicts between bicycles and vehicles on the road and by creating a road-narrowing effect with buffers or vertical barriers, which may reduce vehicle speeds. A raised barrier of plastic posts and painted pavement is a low-cost/quick build option.

Cost \$\$\$

Low Cost / Quick Build alternative available

LRSM ID R33PB

BIKEWAYS



Mixing Zone

Places a suggested bike lane within the inside portion of a dedicated motor vehicle turn lane. Lane markings delineate space for bicyclists and motorists within the same lane and indicate the intended path for bicyclists to reduce conflict with turning motor vehicles.

Cost



Low Cost / Quick Build alternative available



Parking Buffer

Pavement markings denoting door zone of parked vehicles to help bicyclists maintain safe positioning on the roadway

Cost



Low Cost / Quick Build alternative available

BIKEWAYS



Shared Sidewalk Sign

Signs communicate to pedestrians that bicyclists may also use the sidewalk and that bicyclists must yield to pedestrians.

Cost



Low Cost / Quick Build alternative available





Two-Stage Turn Queue Bike Box

This roadway treatment provides bicyclists with a means of safely making a left turn at a multi-lane signalized intersection from a bike lane or cycle track on the far right side of the roadway. In this way, bicyclists are protected from the flow of traffic while waiting to turn. Usage could be mirrored for right-turns from a one-way street with a left-side bikeway.

Cost



BIKEWAYS



Extend Green Time For Bikes

Prolongs the green phase when bicyclists are present to provide additional time for bicyclists to clear the intersection. Can occur automatically in the signal phasing or when prompted with bicycle detection. Topography should be considered in clearance time.

Cost



LRSM ID

S03



Bicycles May Use Full Lane Sign

A sign placed on roads with lanes that are too narrow to allow safe side-by-side passing to indicate that bicyclists may occupy the full lane. This discourages unsafe passing by motorists.

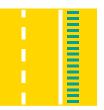
Cost



Low Cost / Quick Build alternative available

Cost \$
LRSM ID R30/R31

INTERSECTIONS & ROADWAYS



Rumble Strips

Rumble strips create noise and vibration inside the vehicle that alert a driver as they cross the center or edge line. Often this alert is strong enough to get the attention of a distracted or drowsy driver, who can quickly make a corrective steering action to return to the roadway safely. Rumble strips also alert drivers to the lane limits when conditions such as rain, fog, snow, or dust reduce driver visibility.

Other Reference Information



All-Way Stop Control

An all-way stop-controlled intersection requires all vehicles to stop before crossing the intersection. An all-way stop controlled intersection improves safety by removing the need for motorists, bicyclists, and pedestrians on a side-street stop-controlled intersection to cross free-flowing lanes of traffic, which reduces the risk of collision. An "ALL WAY" sign should be placed under the octagonal stop sign at all-way stop-controlled intersections as required by the California Manual on Uniform Traffic Control Devices (MUTCD).

Cost \$

LRSM ID NSO2

INTERSECTIONS & ROADWAYS



Centerline Hardening

Centerline hardening is a technique to make intersections safer for pedestrians by encouraging drivers to make left turns at slower speeds.

Cost



Low Cost / Quick Build alternative available



Close Slip Lane

Modifies the corner of an intersection to remove the sweeping right turn lane for vehicles provided truck and bus movements can still be made. Results in shorter crossings for pedestrians, reduced speed for turning vehicles, better sight lines, and space for landscaping and other amenities.

Cost

\$\$\$

Cost \$\$ Low Cost / Quick Build alternative available LRSM ID \$14

INTERSECTIONS & ROADWAYS



Directional Median Openings to Restrict Left Turns

A directional median opening restricts specific turning movements, such as allowing a left-turn from a major street but not from a minor street. A directional median opening to restrict left turn improves safety by reducing the number of conflict points.

Other Reference Information

FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/countermeasures_detail.cfm?CM_NUM=24



Improved Pavement Friction

A roadway must have an appropriate level of pavement friction to ensure that drivers are able to keep their vehicles safely in the lane. Poor pavement conditions, especially wet pavement. have been identified as one of the major contributing factors in roadway departure crashes. When a pavement surface is wet, the level of pavement friction is reduced, and this may lead to skidding or hydroplaning. Pavement friction is critical for changing vehicle direction and ensuring the vehicle remains in its lane. Traditional friction courses or high friction surface treatments should be considered for curves with numerous wet weather crashes or severe curves with higher operating speeds.

Cost \$\$

LRSM ID **R21**

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads

INTERSECTIONS & ROADWAYS



Safety Edge

When a vehicle leaves the traveled way and encounters a pavement-shoulder drop-off, it can be difficult for the driver to return safely to the roadway. A safety edge is a treatment intended to minimize drop-off-related crashes. With this treatment, the shoulder pavement edge is sloped at an angle (30-35 degrees) to make it easier for a driver to safely reenter the roadway after inadvertently driving onto the shoulder. This treatment is designed to be a standard policy for any overlay project.

Cost

\$

Other Reference Information



Guardrail

Guardrail redirects a vehicle away from embankment slopes or fixed objects and dissipates the energy of an errant vehicle. Guardrail is installed to reduce the severity of lane departure crashes. However, guardrail can reduce crash severity only for those conditions where striking the guardrail is less severe than going down an embankment or striking a fixed object.

Cost

LRSM ID



INTERSECTIONS & ROADWAYS



Median Barrier

Barrier in the center of the roadway that physically separates opposing vehicular traffic. Median barriers can also help control access to and from side streets and driveways, reducing conflict points.

Cost

\$\$\$

Low Cost / Quick Build alternative available

LRSM ID RO3

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads

Other Reference Information



Roundabout

A roundabout is a type of circular intersection in which road traffic is permitted to flow in one direction around a central island, and priority is typically given to traffic already in the junction. The types of conflicts that occur at roundabouts are different from those occurring at conventional intersections; namely, conflicts from crossing and left-turn movements are not present in a roundabout. The geometry of a roundabout forces drivers to reduce speeds as they proceed through the intersection; the range of vehicle speeds is also narrowed, reducing the severity of crashes when they do occur. Pedestrians only have to cross one direction of traffic at a time at roundabouts, thus reducing the potential for vehicle/pedestrian conflicts.

Cost \$\$\$

Low Cost / Quick Build alternative available

LRSM ID **\$16/N\$04**

INTERSECTIONS & ROADWAYS



Signal

Traffic signals at intersections control the flow of traffic. Traffic signals have the potential to reduce the most severe type crashes but will likely cause an increase in rear-end collisions. A reduction in overall injury severity is likely the largest benefit of traffic signal installation.

Cost

\$\$\$

LRSM ID NS03

Other Reference Information

Currently the CMF Clearinghouse has only one reference for ped/vehicle collisions which indicates an increase in crash likelihood. However, a majority of references for all crash types show a decrease in collisions. See additional reference: FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads



Superelevation at Horizontal Curve Locations

Superelevation is the rotation of the pavement on the approach to and through a horizontal curve and is intended to assist the driver in negotiating the curve by counteracting the lateral acceleration produced by tracking. In other words, the road is designed so that the pavement rises as it curves, offsetting the horizontal sideways momentum of the approaching vehicle.

Cost

\$\$

INTERSECTIONS & ROADWAYS



Intersection Reconstruction and Tightening

Irregular intersections can be overbuilt and confusing, presenting safety hazards to all users. "Squaring up" an intersection as close to 90 degrees as possible involves intersection reconstruction to provide better visibility for all road users, also reducing high speed turns and reducing pedestrian crossing length.

Cost

\$\$\$

Low Cost / Quick Build alternative available

Other Reference Information



Lane Narrowing

Lane narrowing reduces lane widths to encourage motorists to travel at slower speeds. Lane Narrowing improves safety by lowering the risk of collision among bicyclists, pedestrians, and other motorists.

Cost



INTERSECTIONS & ROADWAYS



Left Turn Enhanced Daylighting/Slow Turn Wedge

Uses paint and bollards to extend the curb and slow left turns at intersections of one-way to one-way or two-way streets. Widening the turning radii of left-turning vehicles expands the field of vision for drivers and increases the visibility of pedestrians.





Paint and Plastic Median

A painted median with plastic posts between the two directions of travel. Reduces vehicular speeding and discourages risky turning movements, increasing pedestrian safety.

Cost



Low Cost / Quick Build alternative available

DRAF

INTERSECTIONS & ROADWAYS



Paint and Plastic Mini Circle

Mini circles use paint and soft hit posts to replace stop-controlled intersections with a circular design that slows traffic and eliminates left turns, also reducing conflict points with pedestrians. Also helps traffic flow more efficiently.

Cost



Low Cost / Quick Build alternative available

Other Reference Information

FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/countermeasures_detail.cfm?CM_NUM=34



Partial Closure/ Diverter

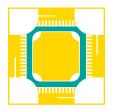
A roadway treatment that restricts through vehicle movements using physical diversion while allowing bicyclists and pedestrians to proceed through an intersection in all directions.

Cost



Low Cost / Quick Build alternative available

INTERSECTIONS & ROADWAYS



Protected Intersection

Protected intersections use corner islands, curb extensions, and colored paint to delineate bicycle and pedestrian movements across an intersection. Slower driving speeds and shorter crossing distance increase safety for pedestrians. Separates bicycles from pedestrians. Implement only if emergency vehicles, buses, and trucks can still make needed turning movements.



\$\$\$

Low Cost / Quick Build alternative available

Other Reference Information

Evolution of the Protected Intersection, Alta Planning and Design, December 2015. https://altaplanning.com/wp-content/uploads/Evolution-of-the-Protected-Intersection_ALTA-2015.pdf



Raised Crosswalk

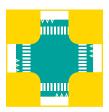
A Raised Crosswalk is a pedestrian crosswalk that is typically elevated 3-6 inches above the road or at sidewalk level. A Raised Crosswalk improves safety by increasing crosswalk and pedestrian visibility and slowing down motorists.

Cost

LRSM ID

R36PB

INTERSECTIONS & ROADWAYS



Raised Intersection

Elevates the intersection to bring vehicles to the sidewalk level. Serves as a traffic calming measure by extending the sidewalk context across the road.

Cost

\$\$\$

Other Reference Information

Note: some studies in CMF Clearinghouse show an increase in crashes. See additional source below showing decrease. (1) Perkins+Will Consultant Team. "Pedestrians at Multi-Modal Intersections." Better Market Street Existing Conditions & Best Practices, Part Two: Best Practices 36-58, City & County of San Francisco, San Francisco. http://www.bettermarketstreetsf. org/about-reports-existing-conditions.html (2) Bhatt, Shailen, Natalie Barnhart, Mark Luszcz, Tom Meyer, & Michael Sommers. "Delaware Traffic Calming Design Manual." Delaware Department of Transportation, State of Delaware, Dover, DE. https://nacto.org/wp-content/uploads/2015/04/ DE-Trafc-Calming-Manual_2012.pdf (3) King, Michael R, Jon A Carnegie, and Reid Ewing. "Pedestrian Safety through a Raised Median and Redesigned Intersections." Journal of the Transportation Research Board 1828 (1), 56-66, Transportation Research Board, Washington, DC. https://trid.trb.org/view/663867 (4) Fitzpatrick, Kay, Mark D Wooldridge, and Joseph D Blaschke. "Urban Intersection Design Guide: Volume 1-Guidelines." Texas Transportation Institute, Texas A&M University System, Texas Department of Transportation, Austin, TX. https://static.tti.tamu. edu/tti.tamu.edu/documents/0-4365-P2.pdf



Raised Median

Curbed sections in the center of the roadway that are physically separated from vehicular traffic. Raised medians can also help control access to and from side streets and driveways, reducing conflict points.

Cost \$\$

Low Cost / Quick Build alternative available

LRSM ID **\$12/N\$14/R08**

INTERSECTIONS & ROADWAYS



Refuge Island

A Raised Median, or Refuge Island, is a raised barrier in the center of the roadway that can restrict certain turning movements and provide a place for pedestrians to wait if they are unable to finish crossing the intersection. A Raised Median improves safety by reducing the number of potential conflict points with designated zones for vehicles to turn, and a pedestrian refuge island improves safety by reducing the exposure time for pedestrians crossing the intersection. Pedestrian refuge areas constructed from paint and plastic may be implemented as part of a low-cost/quick build project.

Cost

Low Cost / Quick Build alternative available

LRSM ID NS19PB

\$\$



Reduced Left-Turn Conflict Intersection

Geometric designs that alter how left-turn movements occur can simplify decisions and minimize the potential for related crashes. Two highly effective designs that rely on U-turns to complete certain left-turn movements are known as the restricted crossing U-turn (RCUT) and the median U-turn (MUT).

Cost

LRSM ID



INTERSECTIONS & ROADWAYS



Right Turn Slip Lane

A right turn slip lane is a traffic lane provided at an intersection to allow vehicles to turn right without actually entering it and interfering with through traffic. Where the main intersection is controlled by traffic signals, a slip lane is often controlled by yield or stop sign.

Cost

\$\$\$





Road Diet

A Road Diet exchanges roadway space dedicated to vehicle travel lanes to create room for bicycle facilities, wider sidewalks, or center turn lanes. A Road Diet improves safety by reducing vehicle speeds and creating designated space for all road users.

Cost \$\$

Low Cost / Quick Build alternative available

LRSM ID R14

INTERSECTIONS & ROADWAYS



Speed Table

These traffic calming devices use vertical deflection to raise the entire wheelbase of a vehicle and encourage motorists to travel at slower speeds to avoid damage to the undercarriage of an automobile while allowing safety vehicles with larger wheelbases through without damage or slowing response time.

Cost





Splitter Island

A raised area that separates the two directions of travel on the minor street approach at an unsignalized intersection or roundabout. Helps channelize traffic in opposing directions of travel. Typically installed at skewed intersections or where speeds on minor roads are high. Provides a refuge for pedestrians.

Cost

\$\$

Low Cost / Quick Build alternative available

LRSM ID

NS13

INTERSECTIONS & ROADWAYS



Straighten Crosswalk

Straightening crosswalks improves sight lines, making pedestrians more visible to oncoming drivers, and may shorten the crossing distance, reducing the length of time required for pedestrians to cross an intersection.

Cost

\$\$

Low Cost / Quick Build alternative available



Widen/Pave Shoulder

Widened and paved shoulders, which may also include flattening the slopes along the sides of the roadway, create a separated space for bicyclists and also provide motor vehicle safety benefits, such as space for inoperable vehicles to pull out of the travel lane. The addition of a paved shoulder to an existing road can help to reduce run-off-road crashes. Benefits can be realized for high risk rural roads without paved shoulders, regardless of existing lane pavement width. Adding paved shoulders within horizontal curve sections may help agencies maximize benefits of the treatment while minimizing costs as opposed to adding paved shoulders to an entire corridor.

Cost \$\$

LRSM ID R15

OTHER



Back-In Angled Parking

Back-In Angled Parking requires motorists to back into an angled on-street parking spot and to drive forward when exiting a parking spot. Back-in angled parking improves safety by increasing visibility of passing vehicles and bicycles while exiting a spot, particularly if large adjacent vehicles obstruct sight, and allows trunk unloading to happen on the curb instead of in the street.

Cost



Low Cost / Quick Build alternative available

Other Reference Information



Access Management/ Close Driveway

Vehicles entering and exiting driveways may conflict with pedestrians and with vehicles on the main road, especially at driveways within 250 feet of intersections. Closing driveways near intersections with high collision rates related to driveways may reduce potential conflicts.

Cost

LRSM ID

Other Reference Information

The CMF Clearinghouse has limited research related to vehicle/pedestrian crashes. See additional reference: FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/ countermeasures detail.cfm?CM NUM=20

OTHER



Intersection Lighting

Lighting is added at an intersection. Adding intersection and/or pedestrianscale lighting at intersections improves safety by increasing visibility of all road users. This countermeasure is most effective at reducing or preventing collisions at intersections at night.

Cost

SS

NS01

Other Reference Information

Pedestrian-Level Lighting: FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/ countermeasures detail.cfm?CM NUM=8



Segment Lighting

Providing roadway lighting improves safety during nighttime conditions by increasing driver awareness, increasing sight distance, and improving visibility of pedestrians and bicyclists.

Cost \$\$

LRSM ID RO1



OTHER



Create or Increase Clear Zone

A clear zone is an unobstructed. traversable roadside area that allows a driver to stop safely or regain control of a vehicle that has left the roadway. The width of the clear zone should be based on risk (also called exposure). Key factors in assessing risk include traffic volumes, speeds, and slopes. Clear roadsides reduce risk from fixed objects (such as utility poles) as well as terrain that may increase the likelihood of a rollover. Creating or increasing clear zones within horizontal curve sections may help agencies maximize benefits of the treatment while minimizing costs, as opposed to providing a clear zone throughout an entire corridor.

Cost \$5

Other Reference Information



Curbside **Management**

Curbside management can better prioritize reliable transit and safe bicycling infrastructure, freight deliveries, passenger pick-ups/drop-offs, green stormwater infrastructure, public spaces, and parking management for safer functionality for all users at the curb.

Cost



OTHER



Far-Side Bus Stop

Far-side bus stops are located immediately after an intersection, allowing the bus to pass through the intersection before stopping for passenger loading and unloading. Far-side stops encourage pedestrians to cross behind the bus for greater visibility and can improve transit service reliability.

Cost







Delineators, Reflectors, and/ or Object Markers

Delineators, reflectors and/or object markers are intended to warn drivers of an approaching curve or fixed object that cannot easily be removed. They are generally less costly than Chevron Signs as they don't require posts to place along the roadside, avoiding an additional object with which an errant vehicle can crash into.

Cost



Low Cost / Quick Build alternative available

LRSM ID R27

OTHER



Impact Attenuators

Impact attenuators bring an errant vehicle to a more-controlled stop or redirect the vehicle away from a rigid object. Impact attenuators are typically used to shield rigid roadside objects such as concrete barrier ends, steel guardrail ends and bridge pillars from oncoming automobiles. Attenuators should only be installed where it is impractical for the objects to be removed.



Other Reference Information



Median Guardrail

The installation of median guardrail is most suitable for use in traversable medians having no or little change in grade and cross slope. While these systems may not reduce the frequency of crashes due to roadway departure, they can help prevent a lane-departure crash from becoming a head-on collision.

Cost





OTHER



Speed Limit Reduction

Setting speed limits to reflect the surrounding context of the roadway and that meet with driver expectations can help improve driver respect for speed limits. Speed limits that appear inconsistent may be ignored by the majority of drivers and this may contribute to lack of respect for speed limit and other traffic laws.

Other Reference Information

TRB Study on Setting Speed Limits; also Richard, C. M., Magee, K., Bacon-Abdelmoteleb, P., & Brown, J. L. (2018, April). Countermeasures that work: A highway safety countermeasure guide for State Highway Safety Offices, Ninth edition (Report No. DOT HS 812 478). Washington, DC: National Highway Traffic Safety Administration.



Relocate Select Hazardous Utility Poles

Relocating or removing utility poles from within the clear zone alleviates the potential for fixed-object crashes. If utility poles cannot be completely eliminated from within the clear zone, efforts can be made to either relocate the poles to a greater offset from the road or delineated.

Cost

\$\$\$

OTHER



Remove Obstructions For Sightlines

Remove objects that may prevent drivers and pedestrians from having a clear sightline. May include installing red curb at intersection approaches to remove parked vehicles (also called "daylighting"), trimming or removing landscaping, or removing or relocating large signs.

Cost

\$

Low Cost / Quick Build alternative available

NS11

LRSM ID

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads

Other Reference Information



Upgrade Lighting to LED

Upgrading Lighting to LED replaces highpressure sodium light bulbs with LED light bulbs in street lights. Upgrading Lighting to LED improves safety by increasing the visibility of pedestrians in crosswalks through greater color contrast and larger areas of light distribution.

Cost

\$\$

OTHER



Red Light Camera

A red light camera enforces traffic signal compliance by capturing the image of a vehicle that has entered an intersection in spite of the traffic signal indicating red. The automatic photographic evidence is used by authorities to enforce traffic laws and issue traffic violation tickets.

Cost

\$\$



PEDESTRIAN FACILITIES



Audible Push Button Upgrade

Push buttons must comply with the Americans with Disability Act (ADA) standards for accessibility. Pushbuttons should be visible and conveniently located for pedestrians waiting at a crosswalk. Accessible pedestrian signals, including audible push buttons, improve access for pedestrians who are blind or have low vision. DIB 82-06 includes accessibility design guidance.

Cost \$\$

PEDESTRIAN FACILITIES



Add Sidewalk

Adding sidewalks provides a separated and continuous facility for people to walk along the roadway. Adding sidewalks improves safety by minimizing collisions with pedestrians walking in the road.

Cost

\$\$

LRSM ID

R34PB

DRAFT

Other Reference Information

Audible Push Button Upgrade and Extended Time Pushbutton: FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/countermeasures detail.cfm?CM NUM=52

Other Reference Information

Data in the CMF Clearinghouse is currently limited to bicycle/vehicle collisions. See additional reference: FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/countermeasures_detail.cfm?CM_NUM=1



Install/Upgrade Pedestrian Crossing at Uncontrolled Locations (Signs and Markings Only)

A pedestrian crossing at an intersection or on a segment provides a formalized location for people to cross the street, reducing the risk of people crossing outside crosswalks where drivers are not expecting them. Crosswalk striping, signs, and other enhanced safety features alert drivers that there may be a pedestrian crossing.

Cost

Low Cost / Quick Build alternative available

LRSM ID R35PB

PEDESTRIAN FACILITIES



Co-Locate Bus Stops and Pedestrian Crossings

Place bus stops and pedestrian crossings in close proximity to allow transit riders to cross the street safely.

Cost





Curb Extensions

A curb extension is a traffic calming measure which widens the sidewalk for a short distance to enhance the pedestrian crossing. This reduces the crossing distance and allowing pedestrians and drivers to see each other when parked vehicles would otherwise block visibility. Paint and plastic curb extensions are a low-cot/quick build option.

Cost \$\$

Low Cost / Quick Build alternative available

LRSM ID NS21PB

Other Reference Information

(1) Application of Pedestrian Crossing Treatments for Streets and Highways, NCHRP, 2016. https://www.nap.edu/catalog/24634/application-of-pedestrian-crossing-treatments-for-streets-and-highways (2) Development of Crash Modification Factors for Uncontrolled Pedestrian Crossing Treatments, NCHRP, 2017. https://www.nap.edu/catalog/24627/development-of-crash-modification-factors-for-uncontrolled-pedestrian-crossing-treatments (3) Evaluation of Pedestrian-Related Roadway Measures, Pedestrian and Bicycle Information Center, 2014. http://www.pedbikeinfo.org/cms/downloads/PedestrianLitReview_April2014.pdf

PEDESTRIAN FACILITIES



Extended Time Pushbutton

A pushbutton that can be pressed to request extra time for using the crosswalk, beyond the standard crossing time. Ideal near senior-serving land uses.

Cost



Other Reference Information

Audible Push Button Upgrade and Extended Time Pushbutton: FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/countermeasures detail.cfm?CM NUM=52



High-Visibility Crosswalk

A high-visibility crosswalk has a striped pattern with ladder markings made of high-visibility material, such as thermoplastic tape, instead of paint. A high-visibility crosswalk improves safety by increasing the visibility of marked crosswalks and provides motorists a cue to slow down and yield to pedestrians.

Cost

Low Cost / Quick Build alternative available

LRSM ID

S18/NS20

PEDESTRIAN FACILITIES



Pedestrian Countdown Timer

Displays "countdown" of seconds remaining on the pedestrian signal. Countdown indications improve safety for all road users, and are required for all newly installed traffic signals where pedestrian signals are installed.

Cost

\$\$

LRSM ID

S17PB



Pedestrian Hybrid Beacon

A pedestrian-hybrid beacon (PHB) is used at unsignalized intersections or mid-block crosswalks to notify oncoming motorists to stop with a series of red and yellow lights. Unlike a traffic signal, the PHB rests in dark until a pedestrian activates it via pushbutton or other form of detection.

Cost \$\$\$

LRSM ID NS23PB

PEDESTRIAN FACILITIES



Landscape Buffer

Separating drivers from bicyclists and pedestrians using landscaping provides more space between the modes and can produce a traffic calming effect by encouraging drivers to drive at slower speeds, lowering the risk of crashing.

Cost

\$\$





Leading Pedestrian Interval and Pedestrian Recall

At intersection locations that have a high volume of turning vehicle and have high pedestrian vs. vehicle crashes, a leading pedestrian interval gives pedestrians the opportunity to enter an intersection 3 - 7 seconds before vehicles are given a green indication. With this head start, pedestrians can better establish their presence in the crosswalk before vehicles have priority to turn left or right.

Cost



LRSM ID **S21PB**

Other Reference Information

Pedestrian Phase Recall: Evaluation of Pedestrian-Related Roadway Measures, Pedestrian and Bicycle Information Center, 2014. http://www.pedbikeinfo.org/cms/ downloads/PedestrianLitReview_April2014.pdf

PEDESTRIAN FACILITIES



Pedestrian Detection

An intersection treatment that relies on sensors to detect when a pedestrian is waiting at a crosswalk and automatically triggers the pedestrian "WALK" phase. Reduces crossings at inappropriate times and ensures that pedestrians have enough time to safely cross the roadway.

Cost





Other Reference Information



Remove Crossing Prohibition

Removes existing crossing prohibitions and provides marked crosswalk and other safety enhancements for pedestrians to cross the street where there are a high number of pedestrians crossing or where there are nodes with long distances between crossings. Prohibition should be removed in areas where it is necessary to keep pedestrians from crossing in dangerous zones and pointing them to cross at safer locations.

Cost



Low Cost / Quick Build alternative available

PEDESTRIAN FACILITIES



Restripe Crosswalk

Periodic restriping of crosswalks is necessary to ensure the traffic markings are visible. Crosswalk may be restriped with high visibility markings.

Cost



Low Cost / Quick Build alternative available

RAFT

Other Reference Information



Upgrade Curb Ramp

Tactile warning devices must be detectable to visually impaired pedestrians. Curb ramps must follow the DIB 82-06 design guidelines.

Cost

\$\$

PEDESTRIAN FACILITIES



Widen Sidewalk

Widening sidewalks provides a more comfortable space for pedestrians, particularly in locations with high volumes of pedestrians, and provides space to accommodate people in wheelchairs. Widening sidewalks improves safety by minimizing collisions with pedestrians walking in the road.

Cost

\$\$



Other Reference Information



Rectangular Rapid Flashing Beacon

A rectangular rapid flashing beacon (RRFB) is a pedestrian-activated flashing light with additional signage to alert motorists of a pedestrian crossing. An RRFB improves safety by increasing the visibility of marked crosswalks and provides motorists a cue to slow down and yield to pedestrians.

Cost \$\$

LRSM ID NS22PB

SIGNALS



Retroreflective Tape on Signals

Retroreflective borders enhance the visibility of traffic signals for aging and color vision impaired drivers enabling them to understand which signal indication is illuminated. Retroreflective borders may also alert drivers to signalized intersections during periods of power outages when the signals would otherwise be dark, and non-reflective signal heads and backplates would not be visible.

Cost



Low Cost / Quick Build alternative available

LRSM ID

S02



Supplemental Signal Heads

Additional signal heads allow drivers to anticipate signal changes farther away from intersections. Supplemental traffic signals may be placed on the near side of an intersection, far-left, far-right, or very high.

Cost

\$\$

LRSM ID



SIGNALS



Advanced Dilemma Zone Detection

The Advanced Dilemma-Zone Detection system adjusts the start time of the yellow-signal phase (i.e. earlier or later) based on observed vehicle locations and speeds. The Advanced Dilemma-Zone Detection system improves safety by minimizing the number of drivers that are faced with the dilemma of determining if they should stop at the intersection or drive through the intersection based on their speed and distance from the intersection.

Cost

\$\$

LRSM ID

S04

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads



Extend Pedestrian Crossing Time

Increases time for pedestrian walk phases, especially to accommodate vulnerable populations, such as children and the elderly.

Cost



Low Cost / Quick Build alternative available

LRSM ID

SO3

SIGNALS



Extend Yellow and All Red Time

Extending yellow and all red time increases the time allotted for the yellow and red lights during a signal phase. Extending yellow and all red time improves safety by allowing drivers and bicyclists to safely cross through a signalized intersection before conflicting traffic movements are permitted to enter the intersection.



Low Cost / Quick Build alternative available

SO3



Flashing Yellow Turn Phase

Flashing yellow turn arrow alerts drivers to proceed with caution and decide if there is a sufficient gap in oncoming traffic to safely make a turn. To be used only when a pedestrian walk phase is not called. Protected-only phases should be used when pedestrians are present.

Cost

\$\$

SIGNALS



Pedestrian Scramble

A form of pedestrian "WALK" phase at a signalized intersection in which all vehicular traffic is required to stop, allowing pedestrians to safely cross through the intersection in any direction, including diagonally.

Cost

\$

LRSM ID SO3



Prohibit Left Turn

Prohibitions of left turns at locations where a turning vehicle may conflict with pedestrians in the crosswalk or where opposing traffic volume is high. Reduces pedestrian interaction with vehicles when crossing.

Cost



Low Cost / Quick Build alternative available

LRSM ID

S15/NS16

SIGNALS



Prohibit Turns During Pedestrian Phase

Restricts left or right turns during the pedestrian crossing phase at locations where a turning vehicle may conflict with pedestrians in the crosswalk. This restriction may be displayed with a blankout sign.

Cost







Protected Left Turns

A protected left turn can be implemented at signalized intersections (with existing left turns pockets) that currently have a permissive left-turn or no left-turn protection that have a high frequency of angle crashes involving left turning, opposing through vehicles, and nonmotorized road users. Left turns are widely recognized as the highest-risk movements at signalized intersections. Providing protected left-turn phases for signalized intersections significantly improve the safety for left-turn maneuvers by removing the need for the drivers to navigate through gaps in oncoming/opposing through vehicles.

Cost

\$\$

LRSM ID **S06/S07**

SIGNALS



Prohibit Right-Turn-on-Red

Prohibiting right-run-on-red movements should be considered at skewed intersections, or where exclusive pedestrian "WALK" phases, Leading Pedestrian Intervals (LPIs), sight distance issues, or high pedestrian volumes are present. Can help prevent crashes between vehicles turning right on red from one street and through vehicles on the cross street, and crashes involving pedestrians.

Cost



Low Cost / Quick Build alternative available

Other Reference Information

Currently the CMF Clearinghouse does not include specific studies; however, permitting right-turns-on-red shows an increase in ped/vehicle crashes. Additional information is available at the FHWA Pedestrian Safety Guide and Countermeasure Selection System. http://www.pedbikesafe.org/PEDSAFE/countermeasures detail.cfm?CM NUM=49



Separate Right-Turn Phasing

Provides a green arrow phase for rightturning vehicles. Avoids conflicts between right-turning traffic and bicyclists or pedestrians crossing the intersection on their right.

Cost \$\$\$

SIGNALS



Shorten Cycle Length

Traffic signal cycle lengths have a significant impact on the quality of the urban realm and consequently, the opportunities for bicyclists, pedestrians, and transit vehicles to operate safely along a corridor. Long signal cycles, compounded over multiple intersections, can make crossing a street or walking even a short distance prohibitive and frustrating. Short cycle lengths of 60–90 seconds are ideal for urban areas.



Other Reference Information

(1) Evaluation of Pedestrian-Related Roadway Measures, Pedestrian and Bicycle Information Center, 2014. http://www.pedbikeinfo.org/cms/downloads/PedestrianLitReview_April2014. pdf (2) FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads

Other Reference Information



Signal Interconnectivity and Coordination / Green Wave

Certain timing, phasing, and control strategies can produce multiple safety benefits. Sometimes capacity improvements come along with the safety improvements and other times adverse effects on delay or capacity occur. The emphasis of improving signal coordination for this countermeasure is to provide an opportunity for slow speed signal coordination. Coordinating signals to allow for bicyclist progression, also known as a 'green wave,' gives bicyclists and pedestrians more time to safely cross through the 'green wave' intersections.

Cost \$\$

LRSM ID SO3

SIGNALS



Speed Sensitive Rest in Red Signal

At certain hours (e.g. late night) a signal remains red for all approaches or certain approaches until a vehicle arrives at the intersection. If the vehicle is going faster than the desired speed, the signal will not turn green until after vehicle stops. If the vehicle is going the desired speed the signal will change to green before the vehicle arrives. This signal timing provides operational benefit to drivers traveling at the desired speed limit. Can be paired with variable speed warning signs.

Cost

\$\$

LRSM ID

R26



Upgrade Signal Head

Upgrading Signal Heads replaces existing 8-inch signal heads with 12-inch signal heads to comply with the California MUTCD's 2014 guidelines. Upgrading signal heads improves safety by providing better visibility of intersection signals and by aiding drivers' advanced perception of upcoming intersections.

\$ Cost

S02 LRSM ID



Advance Stop Bar

SIGNING & STRIPING

An advanced stop bar is a horizontal stripe painted ahead of the crosswalk at stop signs and signals to indicate where drivers should stop. An advanced stop bar improves safety by reducing instances of vehicles encroaching on the crosswalk. Creating a wider stop bar or setting the stop bar further back may be appropriate for locations with known crosswalk encroachment issues.



Low Cost / Quick Build alternative available

S20PB



Advance Yield Markings

Yield lines are placed 20 to 50 feet in advance of multi-lane pedestrian crossings to increase visibility of pedestrians. They can reduce the likelihood of a multiple-threat crash.

Cost



Low Cost / Quick Build alternative available

DRA

SIGNING & STRIPING



Curve Advance Warning Sign

A curve advance warning sign notifies drivers of an approaching curve and may include an advisory speed limit as drivers navigate around the curve. This warning sign is ideally combined with other infrastructure that alerts drivers of the curve, such as chevron signs, delineators, and flashing beacons. A curve advance warning sign improves safety by giving drivers additional time to slow down for the curve.

Cost



Low Cost / Quick Build alternative available

LRSM ID

R24

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads



Flashing Beacon as Advance Warning

A flashing beacon as Advanced Warning is a blinking light with signage to notify motorists of an upcoming intersection or crosswalk. A flashing beacon improves safety by providing motorists more time to be aware of and slow down for an intersection or yield to pedestrians crossing a crosswalk.

Cost \$\$

LRSM ID **S10**



SIGNING & STRIPING



Chevron Signs on Horizontal Curves

Post-mounted chevrons are intended to warn drivers of an approaching curve and provide tracking information and guidance to the drivers. They can be beneficial on roadways that have an unacceptable level of crashes on relatively sharp curves during periods of light and darkness.

Low Cost / Quick Build alternative available

R23

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads



LED-Enhanced Sign

An LED-Enhanced Sign has LED lights embedded in the sign to outline the sign itself or the words and symbols on the sign. The LEDs may be set to flash or operate in a steady mode. An LED-enhanced sign improves safety by improving the visibility of signs at locations with visibility limitations or with a documented history of drivers failing to see or obey the sign (e.g. at STOP signs).

Cost



Low Cost / Quick Build alternative available

LRSM ID

NS08

SIGNING & STRIPING



Painted Centerline and Raised Pavement Markers at Curves on Residential Streets

A raised pavement marker is a small device attached to the road and used as a positioning guide for drivers.

Cost





Speed Feedback Sign

A speed feedback sign notifies drivers of their current speed, usually followed by a reminder of the posted speed limit. A speed feedback sign improves safety by providing a cue for drivers to check their speed and slow down, if necessary.

Cost



Low Cost / Quick Build alternative available

SIGNING & STRIPING



Speed Legends on Pavement at Neighborhood Entries

Speed legends are numerals painted on the roadway indicating the current speed limit in miles per hour. They are usually placed near speed limit signposts.

Cost





Striping Through Intersection

Adding clear pavement markings can guide motorists through complex intersections. Intersections where the lane designations are not clearly visible to approaching motorists and/ or intersections noted as being complex and experiencing crashes that could be attributed to a driver's unsuccessful attempt to navigate the intersection can benefit from this treatment.

Cost



Low Cost / Quick Build alternative available

LRSM ID

S09

SIGNING & STRIPING



Time-Based Turn Restriction

Restricts left-turns or right-turns during certain time periods when there may be increased potential for conflict (e.g., peak periods, school hours).

Cost





Upgrade Intersection Pavement Markings

Upgrading intersection pavement marking can include "Stop Ahead" markings and the addition of centerlines and stop bars. Upgrading intersection pavement markings can improve safety by increasing the visibility of intersections for drivers approaching and at the intersection.

Cost



Low Cost / Quick Build alternative available

LRSM ID

NS07

SIGNING & STRIPING



Upgrade Signs with Fluorescent Sheeting

Upgrading signs with fluorescent sheeting replaces existing signs with new signs that can clearly display warnings by reflecting headlamp light back to vehicles. Upgrading signs with fluorescent sheeting improves safety by increasing visibility of signs to drivers at night.

Cost

\$

Low Cost / Quick Build alternative available

LRSM ID

R22

Other Reference Information

FHWA Manual for Selecting Safety Improvements on High Risk Rural Roads



Upgrade Striping

Restripe lanes with reflective striping to improve striping visibility and clarify lane assignment, especially where the number of lanes changes.

Cost



Low Cost / Quick Build alternative available

LRSM ID

SIGNING & STRIPING



Upgrade to Larger Warning Signs

Upgrading to larger warning signs replaces existing signs with physically larger signs with larger warning information. Upgrading to larger warning signs improves safety by increasing visibility of the information provided, particularly for older drivers.

Cost \$

Low Cost / Quick Build alternative available

NS06



Wayfinding

A network of signs that highlight nearby pedestrian and bicycle facilities. Can help to reduce crossings at locations with poor sight distance or limited crossing enhancements.

Cost



SIGNING & STRIPING



Yield To Pedestrians Sign

"Yield Here to Pedestrians" signs alert drivers about the presence of pedestrians. These signs are required with advance yield lines. Other sign types can be placed on the centerline in the roadway.

Cost





RISIOA VISION ZERO

DRAFT

Appendix B List of Safety Projects

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Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
American Canyon Road West from Wetlands Edge Road to SR 29	Proposed	5-10 years	American Canyon	Yes	American Canyon LRSP American Canyon Speed Survey Countywide Bike Plan	Yes (at SR 29 intersection)	\$\$\$	Convert the two outside travel lanes to Class I paths or Separated Bikeways from Wetlands Edge Road to James Road. Install cycle tracks between James Road and SR 29 by narrowing lanes. Install protected intersections at Elliot Drive and James Road.
American Canyon Road East from SR 29 to Newell Drive	Proposed	5-10 years	American Canyon	Yes	American Canyon LRSP American Canyon Speed Survey	Yes (at SR 29 intersection)	\$\$\$	Install Separated Bikeway between SR 29 and Newell Road by narrowing lanes between SR 29 and Silver Oak Trail, and potential median removal east of Silver Oak Trail. Install protected intersections at Broadway and Newell Drive. Upgrade existing marked crosswalks to high visibility school crossings at Via Firenze.
Benton Way from Wetlands Edge Road to Donaldson Way/Elliott Drive	Proposed	1-5 years	American Canyon	No	American Canyon LRSP, CSSA, American Canyon Speed Survey	No	\$	Install/upgrade pedestrian crossing (with enhanced features), install dynamic/variable speed warning signs. Stripe high visibility on west & south legs at Chaucer Lane. Install curb extensions on west leg & daylight intersection. Consider green conflict markings for bike lanes when they cross the minor streets. Reduce speed limits to 15 mph near schools. Speed limit signage will be updated in Summer 2023.
Flosden Road/Canyon Creek Drive	Proposed	1-5 years	American Canyon	No	American Canyon LRSP	No	\$	Improve signal timing (coordination, phases, red, yellow, or operation), Improve signal hardware: lenses, backplates with retroreflective borders, mounting, size, and number. Modify signal phasing to implement an LPI, audible signals with countdown. Add high visibility striping and directional curb ramps.
Flosden Road/Daniel Drive	Recently Complete d	-	American Canyon	No	American Canyon LRSP	No	\$	Evaluate and improve sight distance to intersection, Install pedestrian crossing (new signs and markings only)
Flosden Road from Daniel Drive to South City Limit	Proposed	1-5 years	American Canyon	No	American Canyon LRSP	No	\$	Install dynamic/variable speed warning signs, Install delineators, reflectors and/or object markers. Add high visibility striping at crosswalks. Complete a feasibility study for a road diet.
Flosden Road/Via Bellagio	Proposed	1-5 years	American Canyon	No	American Canyon LRSP	No	\$	Improve signal timing (coordination, phases, red, yellow, or operation), Improve signal hardware: lenses, backplates with retroreflective borders, mounting, size, and number. Modify signal phasing to implement an LPI and audible signals with countdown. Add high visibility striping and directional curb ramps.

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
Newell Drive from Silver Oak Trail to American Canyon Road	Recently Complete d	-	American Canyon	No	American Canyon LRSP Countywide Transportation Plan	No	\$	Install dynamic/variable speed warning signs. Reduce the speed limit to 30 mph and 25 mph near American Canyon High School. Add high visibility crosswalks throughout.
Paoli Loop Road from SR 29 to SR 29 Overpass	Proposed	1-5 years	American Canyon	No	American Canyon LRSP NVTA CTP 2045 NVTA SR29 CMCP	Yes	\$\$	Install dynamic/variable speed warning signs and centerline rumble strips; Complete an SR 29 access study - Option 1: close the Paoli Loop Road/SR 29 intersection & create a better connection to south intersection; Option 2: Redesign the Paoli Loop Road/ SR 29 intersection to account for the higher speeds along SR 29 vehicle have to merge into.
Rio Del Mar/Los Altos Place	Proposed	5-10 years	American Canyon	No	American Canyon LRSP	No	\$	Evaluate conversion to mini roundabout
Rio Del Mar/Rio Grande	Proposed	1-5 years	American Canyon	No	American Canyon LRSP	No	\$	Relocate existing school crossing, Install/upgrade pedestrian crossing at uncontrolled locations (with enhanced safety features), Install continuous sidewalks to the park, high visibility school crossings, directional curb ramps, and daylight intersections on all legs.
Silver Oak Trail from American Canyon Road to Newell Drive	Proposed	1-5 years	American Canyon	No	American Canyon LRSP	No	\$	Install/upgrade pedestrian crossing (with enhanced features), install dynamic/variable speed warning signs. Add edge lines - mark an 11-foot travel lane in each direction. Convert existing marked crosswalks to high visibility crosswalks, daylight existing crosswalks, and put curb extensions in at existing marked crosswalks. Install an RRFB and high visibility school crossings at Shenandoah Drive. Install
West American Canyon Road from James Road to SR 29	Proposed	1-5 years	American Canyon	Yes	American Canyon LRSP	Yes (at SR 29 intersection)	\$\$	Evaluate sight distance at driveways. Replace raised pavement markers with pavement markings. Narrow vehicle lanes to 11 feet wide. Update bike lanes to be five feet wide plus twofoot painted buffer. Put bike conflict markings across driveways. Remove southbound outer most receiving lane on SR 29.
Guardrail Set- Aside Phase 1	Complete d	-	Calistoga & St. Helena	Yes	Napa County LRSP		\$\$	Upgrade 3 guardrail sections along Silverado Trail from Meadowood Lane to Fawn Park Road and 10 guardrail sections along Petrified Forest Road from Franz Valley School Road to Rancho Juan Inez Road.

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
Lincoln Avenue from SR 128 to Silverado Trail	Proposed	5-10 years	Calistoga	Yes	NVTA CTP 2045	Yes	\$\$	Install Class II bike lanes - obtain space by narrowing travel lanes and, where needed, converting angled to parallel parking. Convert existing front-in angle parking to back-in angle (consistent with Class III facility) - or convert all spaces to parallel parking. Add consistent edge lines to visually narrow the vehicle lane throughout corridor. Aim for design speed limit of 20 or 25 mph. Square up and signalize the intersection of Lincoln Avenue and Silverado Trail. Signal installation should include audible signal with countdown and LPI. Add curb extensions and paint missing crosswalk legs throughout the corridor. Install RRFBs at Myrtle Street and Fair Way. Add high visibility crosswalk markings and consistent daylighting approaching crosswalks at existing crosswalks.
SR 128 through Calistoga from Cedar Street to Pine Street	Proposed	10+ years	Calistoga	Yes	Countywide Transportation Plan	Yes	\$	Add centerline delineators at each intersection from Lillie Street to Pine Street. Potential implementation: add berms along either side of roadway to delineate sidewalks, install RRFBS at 2-3 east-west crosswalks along this roadway segment - intersections to consider: Lillie Street, Silver Street, Berry Street, Spring Street. Look for opportunities to fill in sidewalk gaps with new/updated development. Consider an all way stop control at Berry Street.
SR 29 and Silverado Trail	Proposed	10+ years	Calistoga	Yes		Yes	\$	Add streetlights, delineators, reflectors, and/or object markers along SR 29 and Silverado Trail. Complete a feasibility study for a roundabout and realign the intersection to intersect closer to 90-degrees.
Deer Park Road/Sanitariu m Road Roundabout	Proposed	10+ years	Napa County	Yes	Napa County LRSP	Yes	\$\$\$	Install roundabout at Deer Park Road/Sanitarium Road
Devlin/Sosol Ferry Roundabout	Project Funded	1-5 years	Napa County	Yes		Yes	\$\$\$	Construct a single lane modern roundabout - construction of grading and excavation, asphalt pavement, curb, gutter, sidewalk, drainage systems and electrical systems, including other minor work

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
Howell Mountain Road from (1/4 miles west of White Cottage Road to Sunset Drive)	Proposed	1-5 years	Napa County - Angwin	Yes		No	\$\$	Implement high visibility and speed slowing mitigations on the curves. Add centerline rumble strips, green conflict striping, curve delineation, "curve ahead" warning signage, and object markers. Upgrade existing warning signs to meet retroreflective standards at the intersection with White Cottage Road. At Pope Valley Road and College Avenue, include "Bikes May Use Full Lane" Signage. Where feasible, include buffered bike lanes. At Cold Springs Road, restripe high-visibility pavement markings and an RRFB.
Imola East Revitalization	Proposed	5-10 years	Napa County	Yes	County of Napa LRSP Imola Avenue Corridor Complete Streets Improvement Plan	Yes	\$	Between Soscol Avenue and 4th Avenue: Emphasize pedestrian safety and reduce vehicular conflicts for students walking to Napa Community School from the north side of Imola Avenue. Improve the shoulder along the south side of the roadway and implement traffic calming. Create partnerships with the City and Caltrans to maintain continuity for a shared-use path. Install bike lanes and upgrade pedestrian crossings at Parrish Road and Coronado Avenue
Napa County Roundabouts	Proposed	10+ years	Countywide	Yes	Napa County LRSP		\$\$\$\$	Convert these unsignalized intersections to roundabouts: Silverado Trail at Oak Knoll Avenue: Install flashing beacons as advanced warning, install a southbound right-turn lane on Silverado Trail, convert the two-way left turn lane on Silverado Trail into an acceleration lane, install a right turn lane on Oak Knoll Avenue, and install/upgrade warning signs. Silverado Trail / Zinfandel Lane: Install flashing beacons as advanced warning and install/upgrade warning signs. Chiles Pope Valley Road / Howell Mountain Road
Valley Floor Signage	Proposed	5-10 years	Countywide	Yes	Napa County LRSP		\$\$	Upgrade regulatory and warning signs on 52 roadway segments on the Valley Floor of Napa County with new fluorescent sheeting, as well as replacing existing object markers and reflectors. HSIP funding cannot be applied for before 2025.
Valley Floor Striping	Project Funded	1-5 years	Countywide	Yes	Napa County LRSP		\$\$\$	High-visibility striping. HSIP Cycle 10 funded project.
Strawberry Patch - Silverado Trail (0.25-0.5 miles north of Trancas St)	Proposed	5-10 years	East of the City of Napa	Yes	Napa County LRSP	No	\$	Install flashing beacons as advanced warning, install a southbound right-turn lane, install a southbound acceleration lane, install a northbound left-turn lane, and install/upgrade intersection warning signs.

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
SR 121/Monticell o Road near County line	Proposed	5-10 years	Napa County	Yes		Yes	\$\$	Complete a feasibility study for removal of both slip lanes and realigning the southern approach to the east.
SR 128 from Wragg Canyon Road to Greaves Road	Proposed	5-10 years	Napa County	Yes		Yes	\$	Implement high visibility and speed slowing mitigations on the curves. Add centerline rumble strips, curve delineation and object markers. Upgrade existing warning signs to be sure meet retroreflective standards.
SR 221/Basalt Road Traffic Signal	Project Funded	1-5 years	Napa County	Yes	Napa County Jail Project EIR	No	\$\$\$	Install a three-leg traffic signal at the intersection of SR221 and Basalt Road required by the County's Replacement Jail Project. To eliminate conflicts between the protected southbound left-turn movement and northbound right turns, the free right-turn lane shall be converted to a standard right-turn lane. Similarly, the westbound right-turn lane shall be converted to a standard turn lane to bring this movement under signal control. Right-turn overlap phasing shall be provided between the southbound left turn and westbound right turn. Adequate right-of-way is available to accommodate this improvement and adequate spacing (i.e., more than 2,000 feet) is available between this signal and the nearest signal.
Browns Valley Road	Project in Planning Pipeline	Plans Being Prepare d	Napa	Yes	City of Napa LRSP NVTA CTP 2045	Yes	\$\$	City is preparing plans for Browns Valley Road improvements: project limits are along Browns Valley Rd/First Street from Freeway Drive to McCormick Lane; Intersection of First Street/Freeway Drive is Caltrans.
California Boulevard at Pueblo Avenue	Proposed	1-5 years	Napa	Yes	City of Napa LRSP	No	\$	Non-Signalized Intersection Improvements: Install High Visibility Crosswalk, Install/Upgrade Larger or Additional STOP Signs or other Intersection Regulatory/Warning Signs, and Improve Intersection Pavement Markings. Complete a feasibility study to check signal warrants.

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
Imola Avenue Corridor from Foster Road to Eastern City Limits	Proposed	5-10 years	Napa	Yes	City of Napa LRSP Imola Avenue Corridor Complete Streets Improvement Plan	Yes	\$\$\$\$	Install high-visibility crosswalk, rectangular rapid flashing beacons, dynamic/variable speed warning signs, update signal timings to include LPIs, audible signals with countdown, and bike signals. Between Foster Road and Jefferson Street: Simplify turning movements and freeway ramps at SR 29 to reduce pedestrian and bicycle conflicts. Maintain on-street parking between Foster Road and Golden Gate Drive. Narrow vehicle lane widths (currently look like they vary around 13 to 14 feet wide) to 11 feet. Reallocate space to add a buffer for bicycles. Alternatively, widen and add sidewalk to create Class I facility so bikes can have more separation from cars. Upgrade existing sidewalk and close gaps in bicycle network east of Golden Gate Drive.
					2/			Between Jefferson Street and Soscol Avenue: Install separation for westbound bicyclists where possible. Consider removing decel/accel lane on Imola Ave between Jefferson and Cabot and instead maintain continuity of a bike lane. Create a mobility hub at Soscol Avenue or Gasser Drive. Square up intersections west of Jefferson Street. Install a separated bike facility with vehicle crossings for retail access. Create a mobility hub in open space at Lernhart Street and Minahen Street. Extend the shared-use path and provide a separated bikeway for bicyclists turning west off of Soscol Avenue. Provide high quality connection to the Napa Vine Trail and riverfront, creating a linear park and preserving growth opportunities for Napa Valley College.
Jefferson Street Corridor Complete Streets Improvement Plan	Planned Project Previousl Y Identified	Study Being Prepare d	Napa	Yes	City of Napa LRS	Yes	\$	As part of the SS4A Grant Cycle 1, the City of Napa received funding to study the Jefferson Street corridor. Once the plan is completed, the City will need to apply for funding for implementation of improvements. Intersection of Jefferson Street and Imola Avenue is Caltrans.

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
Lincoln Avenue	Proposed	5-10 years	Napa	Yes	City of Napa LRSP	Yes	\$\$\$	From Yajome Street to Silverado Trail: Install/upgrade signs with fluorescent sheeting, install delineators/reflectors/object markers, improve pavement friction, and install high visibility crosswalks, rectangular rapid flashing beacons, and dynamic/variable speed warning signs. At the intersections with Soscol Avenue and Silverado Trail, raise pavement markers, improve pavement friction, improve signal hardware and timing, modify signal to include a leading pedestrian interval, install advance stop bar, and install pedestrian countdown signal heads. Complete a feasibility study for implementing a road diet with a center turn lane. Add consistent daylighting at intersections. Add pedestrian refuge islands at uncontrolled crosswalks. Realign crossings to orthogonal directions if applicable. SR 29 ramps and Silverado Trail intersections are Caltrans.
Main Street from Lincoln Avenue to 3rd Street	Proposed	1-5 years	Napa	Yes	City of Napa LRSP	No	\$	Add curb extensions at Lincoln Avenue, Yount Street, Vallejo Street, Napa Street, Caymus Street, and Clinton Street. Install RRFBs at Yount Street (consider all-way stop if warrants can be met due to adjacence to park and school) and Vallejo Street. Stripe all missing crosswalk legs with high-visibility striping at H Street, G Street, Jackson Street, Yount Street, and Vallejo Street. Realign crossings to orthogonal directions if applicable. Install consistent edge lines where parking T's are not provided. Consider intersections north of Napa Street/Main Street

Project Name	Status	Timeline	Jurisdiction		Existing Resources	Caltrans facility?	Cost Estimate	Details
Salvador Avenue from SR 29 to Jefferson Street	Planned Project Previousl y Identified	Plans Being Prepare d	Napa	Yes	NVTA CTP 2045 City of Napa LRSP NVTA Countywide Bicycle Plan City of Napa CSSA	Yes	\$\$\$	Install bike lanes along Salvador Avenue, close sidewalk gaps, install directional curb ramps, and update crossing at Moffitt Drive. Upgrade existing marked crosswalks to high visibility markings. Make all curb ramps bi-directional if applicable. Incorporate consistent use of green pavement markings for areas where there are conflicts between bike and vehicle movements. Realign crossings to orthagonal directions if applicable. Entire segment from SR29 to Jefferson Street: Install Class II bike lane. Install 5-ft bike lane with 2-ft buffer. SR 29: Install LPI and audible signals with countdown. Install median refuge for Pedestrian Push Button on north leg. Byway East: Install curb extensions and upgrade existing crosswalk to high-visibility on south leg, Stripe advanced yield lines and install advanced warning signs on east and west legs. Segment from Escuela Drive to Morse Court: Install sharrows. Hermosa Drive: Fill sidewalk gaps and install curb ramps. Encina Drive: Fill sidewalk gaps and install curb ramps, Install new high-visibility crosswalk on north leg. Morse Court: Install new high-visibility crosswalk on north leg. Morse Court: Install new high-visibility crosswalk on south leg to high-visibility striping, Stripe red curb on all legs to daylight the intersection, Stripe advanced yield lines and install advanced warning signs on east and west legs. Moffitt Drive: Install new high-visibility crosswalk on north leg to high-visibility striping, Remove crosswalk on east leg, Install curb extension on the south leg (adjacent to church), Stripe red curb on all legs to daylight the intersection, Stripe advanced yield lines and install advanced warning signs to east and west legs. Dale Drive: Install new high-visibility crosswalk to south leg.
								crosswalks on all legs, Install curb extensions on

Project Name	Status	Timeline	Jurisdiction		Existing Resources	Caltrans facility?	Cost Estimate	Details
								all legs, Stripe red curb on all legs to daylight intersection, Stripe advanced yield lines and install advanced warning signs on east and west legs.
								Jefferson Street: Install new high-visibility crosswalks on all legs, Install curb extensions on all legs, Stripe red curb on all legs to daylight intersection, Stripe advanced yield lines and install advanced warning signs on east and west legs, Install new curb ramps on southeast corner, Remove eastbound right turn pocket and rebuild curb to tighten up the intersection, Install RRFB and advanced warning signs on east leg. Intersection of SR 29/Salvador Avenue is Caltrans.
Silverado Trail from Northern City Limit to Soscol Avenue	Proposed	5-10 years	Napa	Yes	City of Napa LRSP	Yes	\$\$	Northern City Limit to Soscol Avenue: roadway segment improvements - Install/upgrade signs with fluorescent sheeting, install delineators/reflectors/object markers, and improve pavement friction, install high visibility crosswalks, install RRFBs, and install dynamic/variable speed warning signs. Add centerline rumble strips on Silverado Trail north of Lincoln Avenue/Clark Street intersection. Realign crossings to orthogonal directions if applicable. Lincoln Avenue/Clark Street: Signalized intersection improvements- raised pavement markers, and improve pavement friction, improve signal hardware and timing, modify signal to include a LPI, install audible signals with
								countdowns, install advance stop bar, and install pedestrian countdown signal heads. Improve channelized island to serve as a pedestrian refuge. Change the EBR lane to run through the signal. Add high visibility crosswalk markings and realign crossing to orthogonal directions.
Solano Avenue from Lincoln Avenue to Trower Avenue	Proposed	1-5 years	Napa	Yes	City of Napa LRSP	No	\$\$	Roadway segment improvements: Install/upgrade signs with fluorescent sheeting, install delineators/reflectors/object markers, and improve pavement friction, Install high visibility crosswalks, install RRFBs, and install dynamic/variable speed warning signs. Complete a corridor planning study focused on safety. Realign crossings to orthogonal directions if applicable.

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
from Trancas Street to Imola Avenue	Proposed	years	Napa	Yes	City of Napa LRSP	Yes		Trancas Street to Lincoln Avenue: Install/upgrade Signs with fluorescent sheeting, install delineators/reflectors/object markers, improve pavement friction, and install high visibility crosswalks, rectangular rapid flashing beacons, and dynamic/variable speed warning signs along the roadway segment. Stripe narrow vehicle lanes along the whole corridor to slow speeds and use space to create buffer for bike lanes. Stripe high visibility crosswalks at all missing crosswalk legs at Old Soscol Way, Pueblo Avenue, and Central Avenue. Install PHB at Central Avenue. At Lincoln Avenue, install a protected intersection and close all right turn pockets. Lincoln Avenue to 3rd Street: Stripe narrow vehicle lanes between Lincoln Avenue and McKinstry Street and use space to create buffer for bike lanes. Install PHBs and high-visibility crosswalks at Jackson Street and Imperial Way. Install a trail crossing at Vallejo Street. Stripe high visibility crosswalks at missing crosswalk legs at Tanen Street, McKinstry Street, and Pearl Street. Realign crossings to orthogonal directions if applicable. Gasser Drive to Imola Avenue: Close slip lane and square intersection at SR 121/Silverado Trail and Imola Avenue - if capacity is needed, turn the slip lane into a long right-turn pocket. Stripe narrow vehicle lanes throughout and use space to create buffer for bike lanes to upgrade them to Class IV bike lanes. Stripe bike conflict markings for where the bike lane breaks for driveways, bus stops, etc. Stripe high visibility crosswalks at all missing crosswalk legs at SR 121/Silverado Trail, Kansas Avenue, and Shetler Avenue. Install protected intersection at Imola Avenue. Remove slip lanes throughout. Add bike conflict markings.
South Freeway Drive/Golden Gate Drive and		years	Napa	Yes	City of Napa LRSP	No	\$	Complete an intersection control evaluation to determine whether the intersection should be AWSC, signal or a roundabout.
Imola Avenue								, ,

Project Name	Status	Timeline	Jurisdiction	On HIN?	Existing Resources	Caltrans facility?	Cost Estimate	Details
SR 29 Roadway and Intersection Improvements	Proposed	5-10 years	Napa	Yes	City of Napa LRSP City of Napa CSSA	Yes	\$\$\$	Roadway Segment Improvements between northern City Limits and Sierra Avenue: Install/upgrade signs with fluorescent sheeting, install delineators/reflectors/object markers, and improve pavement friction, install high visibility crosswalks, install RRFBs, and install dynamic/variable speed warning signs. Realign crossings to orthogonal directions if applicable. Salvador Avenue: Signalized intersection improvements - raised pavement markers, and improve pavement friction, improve signal hardware and timing, modify signal to include an LPI, and install audible signals with countdown. Install median refuge for pedestrian push button on north leg. Wine County Avenue: Signalized Intersection Improvements - raised pavement markers, and improve pavement friction, improve signal timing, modify signal to include an LPI, and audible signals with countdown. Implement protected signal phasing. Add high visibility markings. Trower Avenue: Signalized intersection improvements: raised pavement markers, and improve pavement friction, improve signal timing, modify signal to include an LPI, and audible signals with countdown. Complete a roundabout feasibility study. SR 12: Signalized intersection improvements - raised pavement markers, improve pavement friction, and improve signal timing. Complete a roundabout feasibility study.
SR 29 at Oakville Cross Road	Proposed	5-10 years	Oakville NVTA/Caltra ns	Yes	Napa Forward	Yes	\$\$\$	Prepare designs for a one-lane roundabout that includes bicycle and pedestrian facilities
SR 29 at Rutherford Road	Proposed	5-10 years	Rutherford NVTA/Caltra ns	Yes	Napa Forward	Yes	\$\$\$	Install a signal that includes a buildout of sidewalk at the southeast corner of the intersection and high-visibility crosswalks along the north, east, and south legs. Signal installation should include an LPI and audible signal with countdown. Roadway redesign along SR 29 would also occur - northbound direction would include dedicated left, through, and right lanes, and the southbound direction would include a dedicated left, through, and shared through-left lane.

Project Name	Status	Timeline	Jurisdiction		Existing Resources	Caltrans facility?	Cost Estimate	Details
Main Street from Pratt Avenue to Charter Oak Avenue	Proposed	1-5 years	St. Helena	Yes	Cultivate St. Helena Countywide Transportation Plan OBAG3 Application Permanent Improvements Spring Street/Highway 29 intersection Community Development Block Grant	Yes	\$\$\$\$	Paint missing high visibility crosswalk, install traffic calming devices, and upgrade signal synchronization throughout the corridor. Phase 1A: Pine St. to Adams - Sidewalk upgrade replacement with upgraded ADA ramps and ADA driveways. Phase 1B: Adams to Mitchell - Install curb extensions along SR 29. At Spring Street, remove existing crosswalk on east leg and install high-visibility crosswalks on west and south legs.
Finnell Road Traffic Calming	Proposed	1-5 years	Yountville	Yes	NVTA Countywide Pedestrian Master Plan	No	\$	Install bulb out at the southern school crosswalk and remove the one parking space just north of the crosswalk along the north side of the road. At Vista Drive, install bulb outs along the north, south and west legs, and daylight the west leg with red curb. Just south of Vista Drive, continue sidewalk implementation along the east side of the road with a pedestrian bridge over the creek or identify a crossing where the sidewalk currently ends.
SR29 at Madison Street	Proposed	5-10 years	Yountville	Yes	Napa Forward	Yes	\$\$\$\$	Complete a feasibility study for a roundabout at SR 29 and Madison Street, or near-term split phasing.

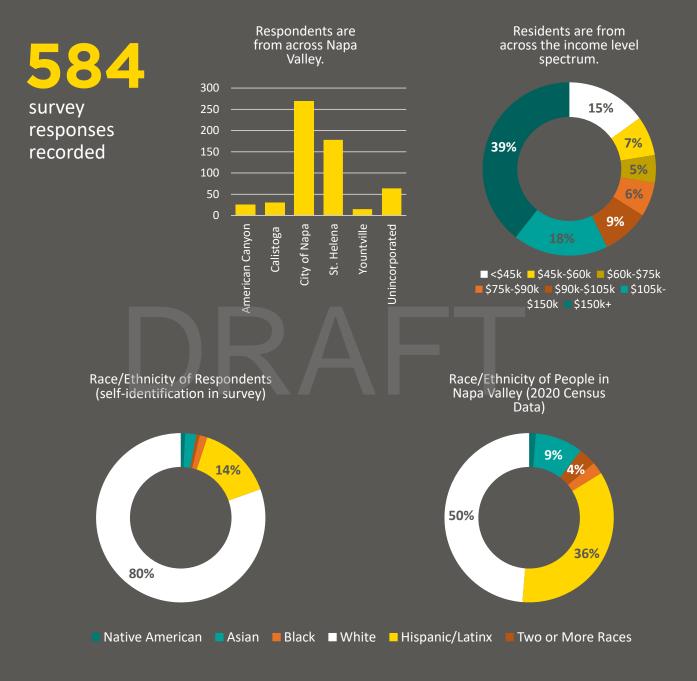
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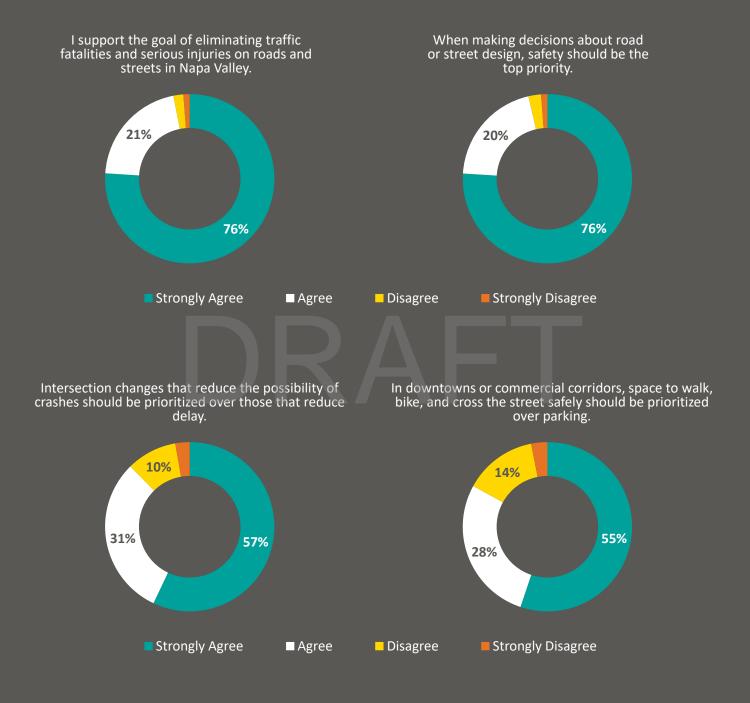
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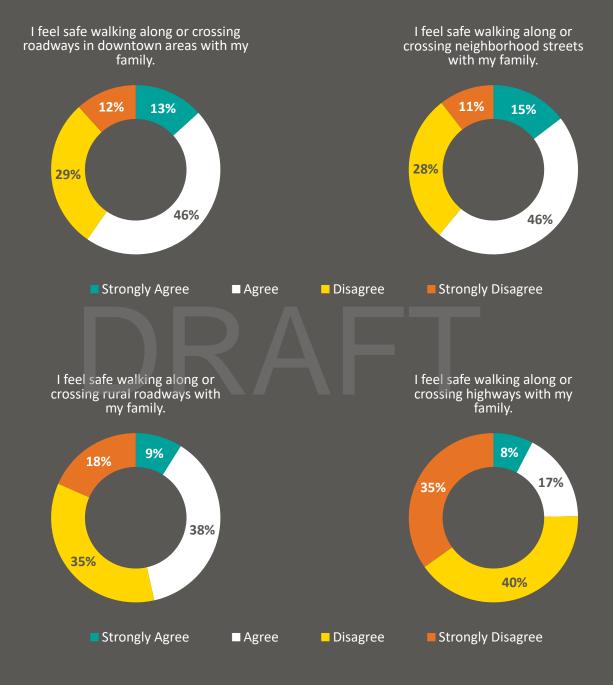
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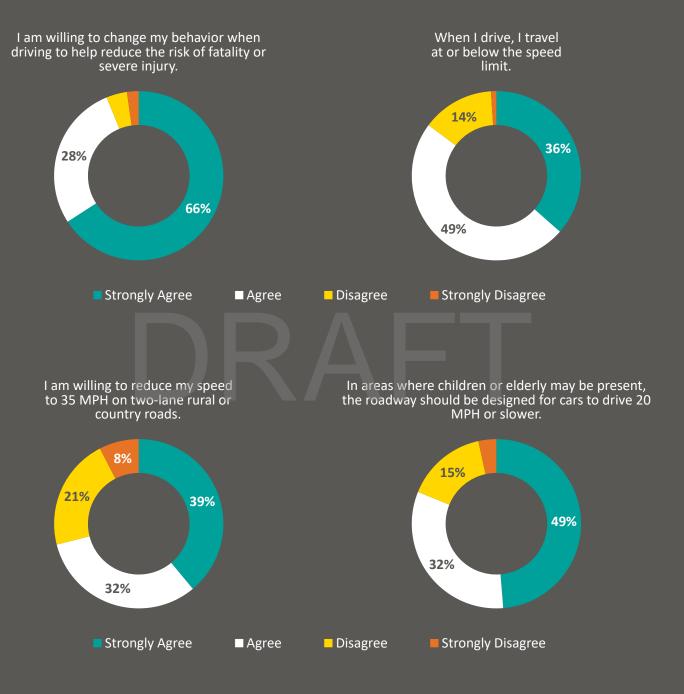
Appendix C Attitudinal Survey Responses

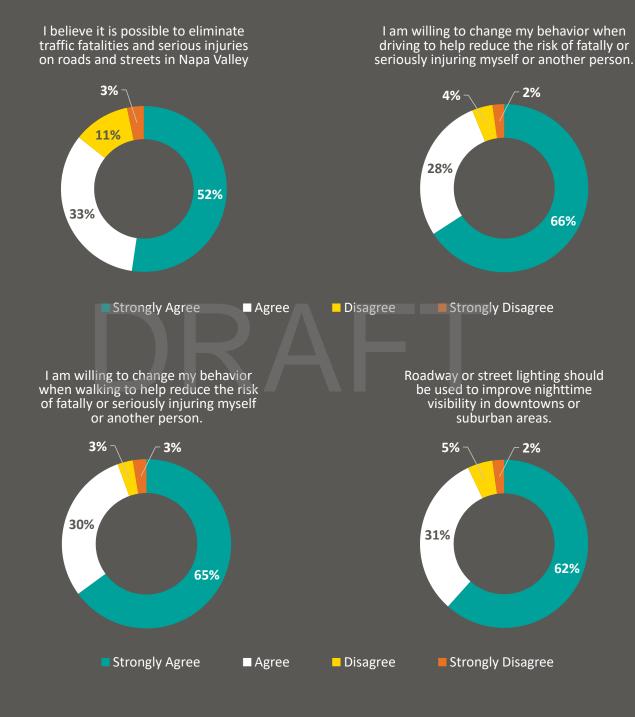
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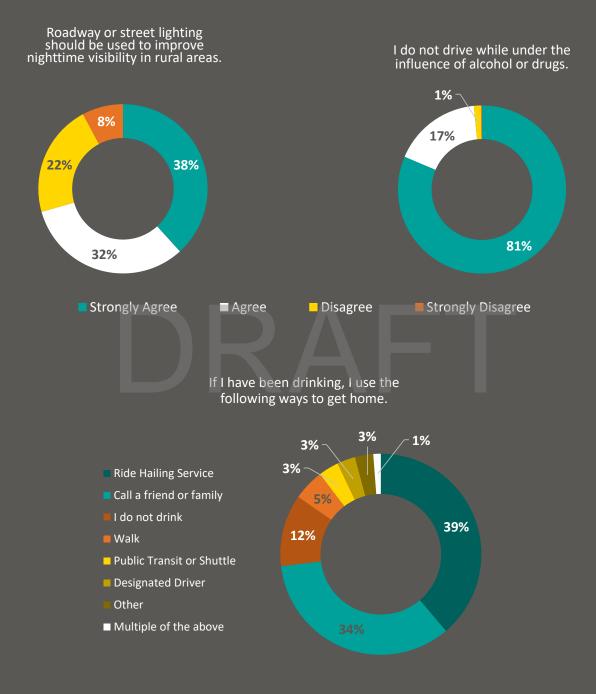














Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1902

TO: **Board of Supervisors**

FROM: Steven Lederer, Director of Public Works

REPORT BY: Sydney Barclay, Assistant Engineer

Budget Amendment for Preliminary Design of Butts Canyon Road (RDS 24-07). **SUBJECT:**

RECOMMENDATION

Director of Public Works requests approval of a Budget Amendment for the following (4/5 vote required):

- 1. Creation of a new Roads Capital Improvement Project for Butts Canyon Road Resurfacing Project (Fund 2040, Sub-Division 2040500, Project 24020);
- 2. Increase Transfer Out appropriations by \$50,000 in the Accumulated Capital Outlay Fund (ACO) (Fund 3000, Sub-Division 3000000, Account 56100) offset by use of its available fund balance to be transferred to Project 24020; and
- 3. Increase Engineering Services appropriations by \$50,000 in Project 24020 (Fund 2040, Sub-Division 2040500, Project 24020, Account 52145) offset by transfer-in revenue from ACO.

EXECUTIVE SUMMARY

Butts Canyon Road (RDS 24-07) will be combined with the Pope Valley Road (RDS 24-05) and Ink Grade Road (RDS 24-06) resurfacing projects under a single construction contract called the "Pope Valley Paving Projects". Resurfacing Butts Canyon Road will occur from Aetna Springs Road to the Snell Valley Road intersection. This budget adjustment is to establish a preliminary engineering design budget to obtain funding for geotechnical pavement testing, site reconnaissance, and the creation of plans, specifications, and appurtenant bid documents.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? No

Where is it budgeted? The Budget Amendment is to transfer funding from the

Accumulated Capital Outlay fund (Fund 3000, Sub-Division

3000000) to Project 24020.

Discretionary Is it Mandatory or Discretionary?

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1902				
Discretionary Justification:	The proposed project will repair the existing pavement that has severely deteriorated overtime in the Pope Valley region of Napa					
	County. The requested budget trans	S				
	improvements, to prepare a complet	1 5				
	geotechnical testing and evaluation.					
Is the general fund affected?	No					
Future fiscal impact:	Design will be completed in Fiscal will occur in Fiscal Year 2024-25.	Year 2023-24 and construction				
Consequences if not approved:	If not approved, this commuter rout	e will continue to degrade and				
	future repair and resurfacing work v	will be more costly if repairs are				
	not performed in a timely manner.	, -				
County Strategic Plan pillar addressed:	Livable Economy for All					
Additional Information	This project will be advertised unde	er the "Pope Valley Paving				
	Project" in 2024, which will include	1 0				
	Valley Road, and Ink Grade Road.	, 1				

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

Butts Canyon Road begins at the intersection of Aetna Springs Road and Pope Valley Road and continues into Middletown, Lake County, and eventually intersecting with Highway 29. Butts Canyon Road is a major collector road and emergency route that provides passage through the Pope Valley region, spanning from Napa County to Lake County. Napa County owns the segment of Butts Canyon Road that spans from Aetna Springs Road to the Lake County line, which is located approximately 1.3± miles north of Snell Valley Road. The base bid for this project will include the pavement section spanning from Aetna Springs Road to Snell Valley Road, and the project will include a bid alternate to resurface the remaining 1.3± miles of Butts Canyon Road from Snell Valley Road.

The Butts Canyon Road Resurfacing Project will include repairs to the pavement surface and roadway features for a minimum of 3.6± miles (base bid), and may include up to 1.3± miles of additional repairs (bid alternate), for a total of 4.9± miles (if both the base bid and bid alternate are awarded). The Butts Canyon Road Resurfacing Project will be combined with the Pope Valley Road and Ink Grade Road Resurfacing Projects, for this will provide for economy of scale bidding as all three (3) roads are within close proximity to one another and the contractor will only need to mobilize once. This budget amendment will provide Public Works with funding for the design phase of this project and will allow staff to move forward with the investigation and design of roadway improvements. Staff will return to the Board of Supervisors with the final design details, ready-to-bid Plans and Specifications, and a request to advertise in the Spring of 2024, with construction scheduled for the Summer of 2024.

County of Napa Public Works Department

BUDGET SUMMARY: BUTTS CANYON ROAD RESURFACING PROJECT: RDS 24-07								
11/15/202								
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	\$0	\$0	\$0	\$0	0%	\$0		
10% Construction Contingency	\$0	\$0	\$0	\$0	0%	\$0		
Design and Engineering / County Project Management	\$25,000	\$25,000	\$0	\$0	0%	\$0		
Design and Engineering Contingency	\$5,000	\$5,000	\$0	\$0	0%	\$0		
Construction Management	\$0	\$0	\$0	\$0	0%	\$0		
Environmental, Geotechnical and Special Inspections	\$20,000	\$20,000	\$0	\$0	0%	\$0		
Permits	\$0	\$0	\$0	\$0	0%	\$0		
TOTAL	\$50,000	\$50,000	\$0	\$0	0%	\$0		



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1932

TO: **Board of Supervisors**

FROM: Steve Lederer, Director

REPORT BY: Nate Galambos, Engineering Manager

SUBJECT: Measure T Annual Approvals

RECOMMENDATION

Director of Public Works requests the following related to Measure T funding for County Roads:

- 1. Adoption of a Resolution confirming commitment of funding for Class 1 bike paths;
- 2. Adoption of a Resolution confirming expenditures to meet the County's Maintenance of Effort (MOE) requirement; and
- 3. Adoption of a Resolution approving amendments to the Measure T five-year work plan for County Roads.

EXECUTIVE SUMMARY

In order for the County to remain eligible to receive Measure T funding the County must meet Napa Countywide Road Maintenance Act requirements. The Act requires "Measure T Equivalent" funding (i.e. investment into the Construction of Class 1 bike paths) to be identified on an annual basis. Additionally, Napa County must inform NVTA-TA annually that it has met its Maintenance of Effort (MOE) expenditures in the previous fiscal year. Finally, Measure T required the development of a five year work plan, and the County is obligated to update the workplan every two years (on even years) per the ordinance.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? No

Where is it budgeted? Some funding for the design projects to be constructed in 2024 has

been allocated from Measure T to the individual capital

improvement projects. As projects move into the construction phase additional Measure T funding will be allocated to each

project to fully fund the projects.

Is it Mandatory or Discretionary? Discretionary

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1932			
Discretionary Justification:	Roads and their project limits funded by Measure T must be approved by the County and NVTA prior to any work being performed on them, and the County is obligated by the ordinance to confirm compliance with both the MOE and Measure T				
	Equivalent funding requirements.				
Is the general fund affected?	No				
Future fiscal impact:	Once construction of the projects is conmaintenance of the roads is required to	± ·			
Consequences if not approved:	The County will not be eligible for Mea				
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to	2			

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

1. Measure T - Class 1 Bike Path Projects

In order for the County to receive Measure T revenues, the County, collectively with all other County jurisdictions, must demonstrate that at least 6.67% of the amount of Measure T revenues (henceforth referred to as the "Equivalent Funds") received each year is being committed to Class I bike facilities identified in the adopted Countywide Bicycle Plan/Active Transportation Plan, using funds not derived from the Measure T ordinance.

2. Measure T - Fiscal Year 2022-23 MOE Expenditures

Measure T requires Napa County to annually inform NVTA-TA through resolution, by January 31st of each calendar year, that it met its MOE expenditures during the previous fiscal year. The required level of effort was \$1,257,107 and the actual level of effort (funds committed through the general fund to roads) was \$3,732,930. The County met the requirement and the resolution and back-up documentation showing how the County met the commitment are attached.

3. Measure T Five-Year Work Plan

Measure T requires the development of a five-year work plan, which is required to be updated per the ordinance every two years (on even years). On November 29, 2022, the Board of Supervisors (Board) adopted a resolution to update Measure T five-year work plan to add several roads scheduled for the 2023 paving. Now, the Measure T five-year work plan is before the Board for its required two-year adoption to begin the 2024 calendar year.

Adoption of the proposed resolution today will make the modifications to the five-year work plan, which will then be sent to Napa Valley Transportation Authority (NVTA) for presentation to the Independent Tax Oversight Committee (ITOC) and then the NVTA Board for adoption.

Public Works staff will return to the Board in December 2025, in accordance with the Measure T ordinance requirements of updating projects lists and reporting information every two years (in even years).

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1932

RESOLUTION NO. -

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, CONFIRMING EQUIVALENT FUND CLASS 1 BIKE LANE FACILITY EXPENDITURES UNDER MEASURE T

- **WHEREAS,** on November 6, 2012 the voters of Napa County passed the Napa Countywide Road Maintenance Act, also known as Measure T, which imposes a half cent transaction and use (sales) tax to provide supplemental funding for road maintenance as detailed in the Measure T Expenditure Plan; and
- **WHEREAS,** the Napa Valley Transportation Authority Tax Agency (NVTA-TA) is the designated agency that administers and oversees the Measure T revenues; and
 - WHEREAS, Napa County is an eligible recipient of Measure T funds; and
- **WHEREAS**, the tax proceeds will be used to pay for the projects outlined in the Measure T Expenditure Plan allocated to the County of Napa and the cities and town within Napa County ("Local Agencies") as set forth in Measure T; and
- **WHEREAS**, under the Measure T Expenditure Plan, Measure T funds are provided to the Local Agencies to be used for streets and roads projects as defined in the Measure; and
- **WHEREAS**, Measure T requires the Local Agencies to collectively demonstrate that at least 6.67% of the value of the annual allocation of funds has been committed to Class 1 bike lane projects identified in the Countywide Bicycle Plan through funding not derived from Measure T; and
- **WHEREAS,** Exhibit "A" to this resolution shows the annual allocation of funds to Napa County by fiscal year, including an allocation for Fiscal Year 2022-23 of \$10,096,986.48 and a corresponding 6.67% amount of \$673,469.00 in commitments to Class 1 bike lane projects Napa County is expected to fund from other sources; and
- **WHEREAS,** Exhibit "A" shows Napa County has cumulatively received \$43,133,372.52 from Measure T, and a corresponding 6.67% amount of \$2,876,995.95 that Napa County is expected to commit to Class 1 bike lane projects from other funding sources through Fiscal Year 2022-23; and
- **WHEREAS,** Exhibit "A" shows Napa County has committed \$4,466,370.00 to Class 1 bike lane projects from other funding sources since Napa County started receiving funds from Measure T; and
- **WHEREAS,** Napa County has entered into a Master Agreement with NVTA-TA ("Master Agreement") that memorializes procedures to implement Measure T; and

WHEREAS, the Master Agreement requires Napa County, by January 31 each calendar year, to provide NVTA-TA a copy of a resolution approved by Board of Supervisors showing the qualifying funding spent on Class I Bicycle Facilities for the prior fiscal year along with relevant supporting documentation; and

WHEREAS, Measure T project(s) will comply with the requirements under the California Environmental Quality Act (California Code Sections 21000 et seq.; as implemented through California Regulations Title 14, Chapter 3, Sections 15000 et seq.);

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors that it confirms that Napa County committed funds other than funds received through Measure T to Class I Bicycle Facilities, as set forth in Exhibit "A."

BE IT FURTHER RESOLVED, that the Public Works Director is directed to provide a copy of this resolution to NVTA-TA on or before January 31, 2024, along with supporting documentation showing the amount of Napa County's commitments to Class I bike lane projects from funding sources other than Measure T during Fiscal Year 2022-23.

	f Supervisors, S	state of California, at a 1	regular meeting of the Board e following vote:
AYES: SUPE	ERVISORS		
NOES: SUPE	ERVISORS		
ABSENT: SUPE	ERVISORS		
		NAPA COUNTY, a p State of California	political subdivision of the
		BELIA RAMOS, Ch	air of the
		Board of Supervisors	3
APPROVED AS TO FORM Office of County Counsel		BY THE NAPA COUNTY OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: Ryan FitzGerald (e-sign) Deputy County Counsel	Date: Processed By:		Ву:
Date: November 21, 2023	Denuty Clerk o	f the Board	

PL No.: 103925

EXHIBIT "A"

FY	Measure T	6.67%
		\$
FY18/19	\$ 7,784,981.33	519,258.25
		\$
FY 19/20	\$ 7,359,398.66	490,871.89
		\$
FY 20/21	\$ 8,080,103.84	538,942.93
		\$
FY 21/22	\$ 9,811,902.21	654,453.88
		\$
FY 22/23	\$ 10,096,986.48	673,469.00
		\$
Total	\$ 43,133,372.52	2,876,995.95

Measure T 6.67% Bike Lane Commitment

FY	An	nount	BOS	Description
				Funding agreement with NVTA, which included transfer of \$196K from the Napa County Roads to the Parks and Open Space District to partially fund the purchase of the Suscol Headwaters Preserve, and in exchange NVTA will reduce County's commitment to the Calistoga to St. Helena Segment of the Vine Trail. NVTA will make up the \$196K shortfall to the Vine Trail project by designating future State Transportation Improvement Program
FY18/19	\$	196,000.00	5/7/2019	(STIP) funds of the same amount to the Vine Trail Project. Funding from Roads Ops.
FY19/20	\$	47,000.00	5/7/2019	Additional \$47K to meet the total County commitment of \$243K to the Calistoga to St. Helena segment of the Vine Trail. Funding from Roads Ops.
FY19/20	\$	324,000.00	9/24/2019	Payment to NVTA for the design and engineering of the Calistoga segment of the Vine Trail. Funding from GF to Roads Ops.
FY 19/20	\$	1,051,120.00		Devlin Road Segment E Project. Funding from TMF.
FY 19/20	\$	126,900.00	3/10/2020	Payment to NVTA for the design and engineering of the Calistoga segment of the Vine Trail. Funding from GF to Roads Ops.
FY 20/21	\$	21,600.00	9/1/2020	Payment to NVTA for the design and engineering of the Calistoga segment of the Vine Trail. Funding from GF to Roads Ops.
FY 20/21	\$	31,750.00	6/22/2021	Payment to NVTA for the design and engineering of the Calistoga segment of the Vine Trail. Funding from GF to Roads Ops.
FY 21/22	\$	2,000,000.00	4/5/2022	Payment to NVTA for the construction of the St. Helena to Calistoga section of the Vine Trail. Funding from ACO to Roads Ops.
FY 22/23	\$	409,000.00	10/18/2022	Replacement Jail bike path contribution Payment to NVTA for the construction of the
FY 23/24	\$	259,000.00	8/22/2023	St. Helena to Calistoga section of the Vine Trail. Funding from ACO to Roads Ops.
Total	\$	4,466,370.00		

RESOLUTION NO. 2023-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, CONFIRMING NAPA COUNTY MET ITS MAINTENANCE OF EFFORT OBLIGATION IN MEASURE T

WHEREAS, on November 6, 2012 the voters of Napa County passed the Napa Countywide Road Maintenance Act, also known as Measure T, which imposes a half cent transaction and use (sales) tax to provide supplemental funding for road maintenance as detailed in the Measure T Expenditure Plan; and

WHEREAS, the Napa Valley Transportation Authority – Tax Agency (NVTA-TA) is the designated agency that administers and oversees the Measure T revenues; and

WHEREAS, Napa County is an eligible recipient of Measure T funds; and

WHEREAS, the tax proceeds will be used to pay for the projects outlined in the Measure T Expenditure Plan allocated to Napa County and the cities and town within Napa County ("Local Agencies") as set forth in Measure T; and

WHEREAS, under the Measure T Expenditure Plan, Measure T funds are provided to the Local Agencies to be used for streets and roads projects as defined in the Measure; and

WHEREAS, Napa County has entered into a Master Agreement with NVTA-TA ("Master Agreement") that outlines procedures for Measure T expenditures, and

WHEREAS, Napa County determined and certified to NVTA-TA the average maintenance of effort amount for Fiscal Years 2007-08, 2008-09 and 2009-10 ("Maintenance of Effort"), consistent with the criteria set forth in Section 9 of Ordinance No. 2012-01, including a memorandum detailing the supporting financial documentation and the methodology utilized to calculate the average fiscal year street and roads costs; and

WHEREAS, the amount of \$1,257,107 set forth in Exhibit "A" was deemed the Maintenance of Effort for Napa County by the Napa County Board of Supervisors on February 6, 2018, which must be maintained annually throughout the term of the Measure from the Napa County General Fund; and

WHEREAS, the Master Agreement requires Napa County, by January 31 each calendar year, to provide NVTA-TA a resolution adopted by the Board of Supervisors showing Napa County met its Maintenance of Effort the prior fiscal year along with relevant supporting documentation; and

WHEREAS, as set forth in Exhibit "B" the County committed \$3,732,930 out of the general fund for road maintenance, in Fiscal Year 2022-23, which exceeds the County's required Maintenance of Effort amount of \$1,257,107; and

WHEREAS, Measure T project(s) will comply with the requirements under the California Environmental Quality Act (California Code Sections 21000 et seq.; as implemented through California Regulations Title 14, Chapter 3, Sections 15000 et seq.);

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors, that it confirms Napa County met its Maintenance of Effort required by Measure T for Fiscal Year 2022-23, as demonstrated by the expenditures on streets and road projects set forth in Exhibit "B."

BE IT FURTHER RESOLVED, that the Public Works Director is directed to provide a copy of this resolution to NVTA-TA on or before January 31, 2024, along with supporting documentation showing that the Maintenance of Effort was met for Fiscal Year 2022-23.

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 5th day of December, 2023, by the following vote:

SUPERVISORS

AYES:

NOES: SUPE	RVISORS			
ABSENT: SUPE	RVISORS			
		NAPA COUNTY, a po State of California	litical subdivision of th	ne
		BELIA RAMOS, Chair Board of Supervisors	r of the	
APPROVED AS TO FORM Office of County Counsel		BY THE NAPA COUNTY D OF SUPERVISORS	ATTEST: NEHA	
By: <u>Ryan FitzGerald (e-sign)</u> Deputy County Counsel	Date: Processed By		By:	
Date: November 21, 2023 PL No.: 103926	Deputy Clerk	of the Board		

EXHIBIT "B"

Napa County Measure T Maintenance of Effort (MOE) Certification for Fiscal Year 2022-2023

NVTA-TA Approved MOE	\$1,257,107
MOE Amount Certified for FY 2022-23	\$3,732,930
MOE Amount Certified for FY 2021-22	\$3,732,000
MOE Amount Certified for FY 2020-21	\$3,632,000
3-Year Average MOE Amount	\$3,698,977
Measure T funds Received in FY 2022-23	\$10,176,792
Measure T funds Expended in FY 2022-23	\$7,819,591
Measure T funds Balance in Account	\$9,493,768



Statement of Revenues and Expenses Budget vs. Actual

Fiscal Year: 2023 Through Period: 12

Fund: 2440 - Public Ways & Facilities SRFs

Division: 24450 - Measure T
Org: 1220053 - Measure T

		Budget					% of Budget
Object	Adopted	Adjustments	Revised	Encumbrances	Actuals	Available Budget	
Intergovernmental Revenues							
43950 - Other - Governmental Agencies	5,675,254.00	-	5,675,254.00	-	10,096,986.48	(4,421,732.48)	177.91 %
Total Intergovernmental Revenues	5,675,254.00	-	5,675,254.00	-	10,096,986.48	(4,421,732.48)	177.91 %
Revenue from Use of Money and Property							
45100 - Interest	12,000.00	-	12,000.00	-	54,479.18	(42,479.18)	453.99 %
Total Revenue from Use of Money and Property	12,000.00	-	12,000.00	-	54,479.18	(42,479.18)	453.99 %
Other Financing Sources							
48200 - Transfers-In	-	25,327.00	25,327.00		25,326.30	0.70	100.00 %
Total Other Financing Sources	-	25,327.00	25,327.00	-	25,326.30	0.70	100.00 %
Other Financing Uses							
56100 - Transfers Out	-	7,819,592.00	7,819,592.00	-	7,819,591.24	0.76	100.00 %
Total Other Financing Uses	-	7,819,592.00	7,819,592.00	-	7,819,591.24	0.76	100.00 %
33100 - Beginning Available Fund Balance					7,136,567.74		
	F 697 3F4 00	25 227 00	F 712 F01 00			(4.464.310.06)	170 15 0/
Total Revenues	5,687,254.00	<u>25,327.00</u>	5,712,581.00		<u>10,176,791.96</u>	(4,464,210.96)	178.15 %
Total Expenditures		<u>7,819,592.00</u>	7,819,592.00		<u>7,819,591.24</u>	0.76	100.00 %

Net Surplus / (Deficit)	5,687,254.00	(7,794,265.00)	(2,107,011.00)	2,357,200.72
33100 - Current Available Fund Balance				9,493,768.46



Statement of Revenues and Expenses Budget vs. Actual

Fiscal Year: 2023 Through Period: 12

 Fund:
 2040 - Roads

 Division:
 20400 - Roads

 Org:
 2040000 - Roads

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		Buaget					
Object	Adopted	Adjustments	Revised	Encumbrances	Actuals	Available Budget	% of Budget
License, Permits and Franchises							
42400 - Road Privileges and Permits	125,000.00	-	125,000.00	-	197,412.41	(72,412.41)	157.93 %
Total License, Permits and Franchises	125,000.00	-	125,000.00	-	197,412.41	(72,412.41)	157.93 %
Intergovernmental Revenues							
43105 - ST - Highway Users Tax	3,400,000.00	-	3,400,000.00	-	3,880,139.47	(480,139.47)	114.12 %
43790 - ST - Other Funding	337,000.00	-	337,000.00	-	1,328,206.51	(991,206.51)	394.13 %
Total Intergovernmental Revenues	3,737,000.00	-	3,737,000.00	-	5,208,345.98	(1,471,345.98)	139.37 %
Fines, Forfeitures, and Penalties							
44300 - Forfeitures and Penalties	5,000.00	-	5,000.00	-	-	5,000.00	0.00 %
Total Fines, Forfeitures, and Penalties	5,000.00	-	5,000.00	-	-	5,000.00	0.00 %
Revenue from Use of Money and Property							
45100 - Interest	125,000.00	50,000.00	175,000.00	-	357,734.52	(182,734.52)	204.42 %
Total Revenue from Use of Money and Property	125,000.00	50,000.00	175,000.00	-	357,734.52	(182,734.52)	204.42 %

 Fund:
 2040 - Roads

 Division:
 20400 - Roads

 Org:
 2040000 - Roads

Budget

	budget						
Object	Adopted	Adjustments	Revised	Encumbrances	Actuals	Available Budget	% of Budget
Charges for Services							
46800 - Charges for Services	-	9,332.00	9,332.00	-	9,332.14	(0.14)	100.00 %
46900 - Interfund Revenue	184,000.00	(90,000.00)	94,000.00	-	184,442.81	(90,442.81)	196.22 %
Total Charges for Services	184,000.00	(80,668.00)	103,332.00	-	193,774.95	(90,442.95)	187.53 %
Other Financing Sources							
48200 - Transfers-In	-	277,057.00	277,057.00	-	277,056.58	0.42	100.00 %
48210 - Transfers-In from General Fund	3,732,930.00	-	3,732,930.00	-	3,732,930.00	-	100.00 %
Total Other Financing Sources	3,732,930.00	277,057.00	4,009,987.00	-	4,009,986.58	0.42	100.00 %
Special Items							
49900 - Intrafund Transfers-In	1,250,000.00	270,433.00	1,520,433.00	-	1,020,431.27	500,001.73	67.11 %
Total Special Items	1,250,000.00	270,433.00	1,520,433.00	-	1,020,431.27	500,001.73	67.11 %
Salaries and Employee Benefits							
51100 - Salaries and Wages	2,528,611.00	200,000.00	2,728,611.00	-	2,431,562.10	297,048.90	89.11 %
51115 - Overtime	80,000.00	29,148.00	109,148.00	-	148,089.06	(38,941.06)	135.68 %
51130 - Vacation Payout	26,750.00	-	26,750.00	-	11,903.17	14,846.83	44.50 %
51135 - Longevity Pay	3,745.00	-	3,745.00	-	6,250.00	(2,505.00)	166.89 %
51200 - 401A Employer Contribution	2,000.00	-	2,000.00	-	9,569.13	(7,569.13)	478.46 %
51205 - Cell Phone Allowance	13,920.00	-	13,920.00	-	11,888.50	2,031.50	85.41 %
51300 - Medicare	36,870.00	-	36,870.00	-	37,017.95	(147.95)	100.40 %
51400 - Employee Insurance - Premiums	528,312.00	29,148.00	557,460.00	-	547,914.03	9,545.97	98.29 %
51405 - Workers Compensation	51,500.00	-	51,500.00	-	51,500.00	-	100.00 %
51600 - Retirement	618,299.00	-	618,299.00	-	601,244.09	17,054.91	97.24 %
51601 - Retirement Cost Sharing	-	-	-	-	(16,348.98)	16,348.98	0.00 %
51605 - Other Post Employment Benefits	163,519.00	-	163,519.00	-	163,519.00	-	100.00 %

51999 - Salary Savings	(97,884.00)	-	(97,884.00)	-	-	(97,884.00)	0.00 %
Total Salaries and Employee Benefits	3,955,642.00	258,296.00	4,213,938.00	-	4,004,108.05	209,829.95	95.02 %
Services and Supplies							
52130 - Information Technology Svcs	106,194.00	-	106,194.00	-	106,194.00	-	100.00 %
52131 - ITS Communication Charges	38,575.00	-	38,575.00	-	38,575.00	-	100.00 %
52132 - ITS Records Management	226.00	-	226.00	-	226.00	-	100.00 %
52140 - Legal Services	7,000.00	-	7,000.00	-	-	7,000.00	0.00 %
52145 - Engineer Services	890,975.00	159,025.00	1,050,000.00	-	893,884.86	156,115.14	85.13 %
52310 - Consulting Services	164,000.00	(94,000.00)	70,000.00	-	2,746.00	67,254.00	3.92 %
52325 - Waste Disposal Services	40,000.00	-	40,000.00	-	23,321.44	16,678.56	58.30 %
52340 - Landscaping Services	59,550.00	151,701.00	211,251.00	-	81,662.18	129,588.82	38.66 %
52345 - Janitorial Services	12,500.00	-	12,500.00	-	10,325.55	2,174.45	82.60 %
52350 - Street Sweeping Services	25,000.00	-	25,000.00	-	18,302.85	6,697.15	73.21 %
52360 - Construction Services	43,500.00	(43,500.00)	-	-	62,679.06	(62,679.06)	0.00 %
52490 - Other Professional Services	104,500.00	-	104,500.00	-	87,465.00	17,035.00	83.70 %
52500 - Maint - Equipment	15,000.00	-	15,000.00	-	8,365.71	6,634.29	55.77 %
52505 - Maint - Bldg & Improvements	-	6,515.00	6,515.00	-	5,671.31	843.69	87.05 %
52510 - Maint - B&I - PW Charges	35,958.00	-	35,958.00	-	23,292.06	12,665.94	64.78 %
52525 - Maint - Infrastructure/Land	-	20,436.00	20,436.00	-	20,436.00	-	100.00 %
52600 - Rents/Leases - Equipment	180,000.00	-	180,000.00	-	254,360.48	(74,360.48)	141.31 %
52700 - Insurance - Liability	1,120,172.00	-	1,120,172.00	-	1,120,172.00	-	100.00 %
52800 - Communications/Telephone	5,500.00	-	5,500.00	-	6,221.95	(721.95)	113.13 %
52810 - Advertising/Marketing	200.00	-	200.00	-	-	200.00	0.00 %
52840 - Permits/License Fees	4,500.00	-	4,500.00	-	1,525.12	2,974.88	33.89 %
52900 - Training/Conference Expenses	22,930.00	-	22,930.00	-	6,500.00	16,430.00	28.35 %
52906 - Fleet Charges	1,456,018.00	150,000.00	1,606,018.00	-	1,755,641.79	(149,623.79)	109.32 %
53100 - Office Supplies	2,000.00	(20.00)	1,980.00	-	4,356.01	(2,376.01)	220.00 %
53110 - Freight/Postage	350.00	-	350.00	-	-	350.00	0.00 %
53120 - Memberships/Certifications	200.00	-	200.00	-	-	200.00	0.00 %
53205 - Utilities - Electric	95,000.00	-	95,000.00	-	91,377.35	3,622.65	96.19 %
53210 - Utilities - Propane	5,000.00	-	5,000.00	-	5,688.37	(688.37)	113.77 %

53220 - Utilities - Water	12,000.00	-	12,000.00	-	6,535.52	5,464.48	54.46 %
53250 - Fuel	6,500.00	-	6,500.00	-	8,180.70	(1,680.70)	125.86 %
53300 - Clothing and Personal Supplies	6,000.00	-	6,000.00	-	8,890.52	(2,890.52)	148.18 %
53320 - Safety Supplies	10,000.00	-	10,000.00	-	2,521.27	7,478.73	25.21 %
53330 - Janitorial Supplies	1,095.00	-	1,095.00	-	2,156.23	(1,061.23)	196.92 %
53350 - Maintenance Supplies	130,000.00	3,080.00	133,080.00	-	176,826.90	(43,746.90)	132.87 %
53355 - Vehicle Repair Supplies	10,000.00	-	10,000.00	-	2,458.07	7,541.93	24.58 %
53360 - Infrastructure Repair Supplies	1,550,000.00	-	1,550,000.00	-	706,591.88	843,408.12	45.59 %
53400 - Minor Equipment/Small Tools	10,000.00	-	10,000.00	-	16,200.79	(6,200.79)	162.01 %
Total Services and Supplies	6,170,443.00	353,237.00	6,523,680.00	-	5,559,351.97	964,328.03	85.22 %
Other Charges							
54500 - Taxes and Assessments	105.00	20.00	125.00	-	116.90	8.10	93.52 %
Total Other Charges	105.00	20.00	125.00	-	116.90	8.10	93.52 %
Capital Assets							
55400 - Equipment	15,000.00	-	15,000.00	-	-	15,000.00	0.00 %
Total Capital Assets	15,000.00	-	15,000.00	-	-	15,000.00	0.00 %
Other Financing Uses							
56190 - Transfers Out to Debt Service	5,310.00	-	5,310.00	-	5,178.61	131.39	97.53 %
56200 - Indirect Cost Allocation	176,667.00	-	176,667.00	-	176,667.00	-	100.00 %
Total Other Financing Uses	181,977.00	-	181,977.00	-	181,845.61	131.39	99.93 %
Special Items							
57900 - Intrafund Transfers Out	-	31,173.00	31,173.00	-	31,172.30	0.70	100.00 %
Total Special Items	-	31,173.00	31,173.00	-	31,172.30	0.70	100.00 %
33100 - Beginning Available Fund Balance					5,201,587.97		
Total Revenues	9,158,930.00	<u>516,822.00</u>	9,675,752.00		<u>10,987,685.71</u>	(1,311,933.71)	113.56 %

10,965,893.00

(1,290,141.00)

Total Expenditures

Net Surplus / (Deficit)

10,323,167.00

(1,164,237.00)

642,726.00

(125,904.00)

89.15 %

1,189,298.17

<u>9,776,594.83</u>

1,211,090.88

33100 - Current Available Fund Balance 6,412,678.8
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33510 - Restricted Fund Balance 110,500.00

Journal Date	Journal ID	Source	Org	Object	GL Project Line Description	VendorID	Paid By Reference	PL Project	PL Seg 2	PL Seg 3	PL Seg 4	Amount
8/1/2022	54	GEN	2040000	48210	22/23 Allocation to Roads							3,732,930.00
											Total	3,732,930.00

County Executive Office



1195 Third St. Suite 310 Napa, CA 94559 www.countyofnapa.org

Main: (707) 253-4421 Fax: (707) 253-4176

Minh Tran
Interim County Executive Officer

MEMO

The

TO:

NVTA Kate

Date:

September 12, 2017

From:

Minh Tran, Interim County Executive Officer

RE:

Measure T Maintenance of Effort Calculation

The County of Napa has calculated its Maintenance of Effort (MOE) for Measure T based on County General Fund transfers to the County's Road Fund. Different than most city/town agencies, the County has a special revenue fund created to capture revenues and expenditures directly related to constructing and maintaining the unincorporated road network. The County subsidizes the Road Fund with transfers of discretionary resources to try and mitigate the declining support provided by the State and federal agencies. The County has calculated its MOE using the following information:

	Transfer per	Transfer for
<u>Fiscal Year</u>	Financial Statements	MOE Purposes
2007-08	\$ 722,691	\$ -
2008-09	2,839,321	2,839,321
2009-10	932,000	932,000
Total Three Year Contribution		3,771,321
Divided by Number of Years		3
Three Year Average		<u>\$ 1,257,107</u>

The 2007-08 transfer reported in the County's financial statements, \$722,691, was the forgiveness of a loan issued by the County's General Fund in fiscal year 2005-06. Since the loan was issued to cover a negative cash position, our position is the funds were actually spent in the year of the loan and are properly excluded from MOE calculations.

While a case could be made that the Road Fund did not expend 100% of the General Fund transfers during the MOE period based on increased cash and fund balance achieved (2007 Ending – Cash \$1.3M, Fund Balance \$2.2M; 2010 Ending – Cash \$5.4M, Fund Balance \$2.8M), the County is not interested in allocating the General Fund contributions over funds actually expended in order to reduce the County's MOE amount.

RESOLUTION NO. 2023-____

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, APPROVING PROJECTS UNDER THE MEASURE T PROGRAM

WHEREAS, on November 6, 2012, the voters of Napa County passed the Napa Countywide Road Maintenance Act, also known as Measure T, which imposes a half cent transaction and use (sales) tax to provide supplemental funding for road maintenance as detailed in the Measure T Expenditure Plan; and

WHEREAS, the Napa Valley Transportation Authority – Tax Agency (NVTA-TA) is the designated agency that administers and oversees the Measure T revenues; and

WHEREAS, Napa County is a Local Agency eligible to receive Measure T funds; and

WHEREAS, the tax proceeds will be used to pay for the projects outlined in the Measure T Expenditure Plan allocated to Napa County and the cities and town within Napa County ("Local Agencies") as set forth in Measure T; and

WHEREAS, under the Measure T Expenditure Plan, Measure T funds are provided to the Local Agencies to be used for streets and roads projects as defined in the Measure; and

WHEREAS, Napa County entered into a Master Agreement with NVTA-TA that outlines procedures for Measure T expenditures, and

WHEREAS, Napa County approved an updated five-year project list on November 29, 2022, and provided to NVTA-TA for the expenditure of Measure T funds as required by the Measure; and

WHEREAS , Napa County intends to amend the five-year project list and provide to NVTA-TA for the expenditure of Measure T funds as required by the Measure; and ///
///
<i>111</i>

WHEREAS, Measure T project(s) will comply with the requirements under the California Environmental Quality Act (California Code Sections 21000, *et seq.*; as implemented through California Regulations Title 14, Chapter 3, Sections 15000, *et seq.*);

NOW, THEREFORE, BE IT RESOLVED that the Napa County Board of Supervisors hereby adopts the amendments to the five-year project list as set forth in Exhibit "A," and authorizes the Public Works Director to file the list with NVTA.

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 5th day of December, 2023, by the following vote:

AYES:	SUPERVISORS	
NOEG.	CLIDEDVICODO	
NOES: ABSENT:	SUPERVISORS SUPERVISORS	
TIBOLI (T.	SOLEKTISOKS	NAPA COUNTY, a political subdivision of the State of California
		BELIA RAMOS, Chair of the Board of Supervisors

APPROVED AS TO FORM	APPROVED BY THE NAPA	ATTEST: NEHA HOSKINS
Office of County Counsel	COUNTY	Clerk of the Board of Supervisors
	BOARD OF SUPERVISORS	
By: <u>Ryan FitzGerald</u> (e-sign)		
Deputy County Counsel	Date:	By:
	Processed By:	
Date: <u>November 21, 2023</u>		
PL No.: 103927	Deputy Clerk of the Board	

EXHIBIT "A"

Measure T Napa Countywide Road Maintenance Act Five-Year List of Projects

Project Submittal Form

Jurisdiction Name:		Napa County	
Primary Contact #1	Juan Arias	Email: <u>juan.arias@countyofnapa.orq</u>	Phone: (707) 259-8374
Secondary Contact #2	Steve Lederer	Email: steven.lederer@countyofnapa.orq	Phone: (707) 259-8228
Staff Member Completing LS&R State Controller Report:	Maiko Klieman	Email: maiko.klieman@countyofnapa.org	Phone: (707) 259-8382

Maintenance of Effort (MOE)

Please provide the certified MOE amount of the jurisdiction: \$3,732,930

Please note: Eligible expenses include local streets and roads maintenance and supporting infrastructure within the public right of way including, but not limited to pavement, sealing, overlays, reconstruction, associated infrastructure, as required, excluding any local revenues expended for the purpose of storm damage repair as verified by an independent auditor. One time allocations that have been expended for local streets and road maintenance, but which may not be available on an ongoing basis shall not be considered when calculating an Agency's annual maintenance of effort.

Planned Measure T Expenditures

Please provide 5 year planned streets and road maintenance projects beginning in FY 2021-22 (add more lines as needed). Per the Measure T Expenditure Plan, a *Project* is a single effort with a beginning and an end that would cause the construction or maintenance or reconstruction of some tangible portion of a transportation asset owned or operated by public agency that has independent utility. A *project* is not repeated on an annual basis, it does not appear without a detailed description as to cost and location in a local agency budget, and it must appear in a capital budget. Project numbers will be assigned by NVTA-TA.

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Program	Project Description	Fiscal Year		Measure T Amount	Other Funds	Location (intersection, mile marker, length of alignment)
Repair	Repair	2023-24	\$1,800,000.00		\$0.00	Redwood Road MPM 5.76
Overlay	Road Overlay	2023-24	\$455,000.00	1/	\$0.00	Finnell Road (Yountville Cross Road to City Limit)
Surface Treatment	Road Seal	2023-24	\$1,500,000.00	1 //	\$0.00	Yountville Crossroad (Yountville town limit to Silverado Trail)
Surface Treatment	Road Seal	2023-24	\$1,600,000.00		\$0.00	Oakville Crossroad (Hwy 29 to Silverado Trail)
Surface Treatment	Road Seal	2023-24	\$300,000.00		\$0.00	Redwood Rd (Browns Valley to Mt Veeder Rd)
Overlay	Road Overlay	2023-24	\$1,113,000.00		\$0.00	Bennet Lane (Tubbs Lane to Hwy 128)
Overlay	Road Overlay	2023-24	\$500,000.00	\$500,000.00	\$0.00	Tubbs Lane (Silverado Trail to SR 29)
Overlay	Road Overlay	2023-24	\$1,000,000.00		\$0.00	Dunaweal Lane (SR 29 to Silverado)
Overlay	Road Overlay	2023-24	\$260,400.00	\$260,400.00	\$0.00	Lodi Lane (Hwy 128 to Silverado Trail)
Overlay	Road Overlay	2023-24	\$348,057.00	\$348,057.00	\$0.00	Bale Lane (Silverado Trail to Hwy 128)
Overlay	Road Overlay	2023-24	\$57,200.00	\$57,200.00	\$0.00	Larkmead Lane (Silverado Trail to Hwy 128)
Overlay	Road Overlay	2023-24	\$570,000.00	\$570,000.00	\$0.00	Old Lawley Toll Road (Hwy 29 to 6,000 ft)
Surface Treatment	Road Overlay	2023-24	\$1,000,000.00	\$1,000,000.00	\$0.00	Silverado Trail (Trancas Street to Hwy 29)
Overlay	Road Overlay	2023-24	\$500,000.00	\$500,000.00	\$0.00	Diamond Mountain Road (SR 29 to end)
Overlay	Road Overlay	2023-24	\$300,000.00	\$300,000.00	\$0.00	American Canyon Rd (Am. Cyn. City Limit to County line)
Overlay	Road Overlay	2023-24	\$1,500,000.00	\$1,500,000.00	\$0.00	Salvador Ave (Big Ranch to Napa city limit)
Overlay	Road Overlay	2023-24	\$628,250.00	\$628,250.00	\$0.00	El Centro (Big Ranch to Napa City Limit)
Overlay	Road Overlay	2023-24	\$136,570.00		\$0.00	Sunnydale Drive (Salvador to End)
Overlay	Road Overlay	2023-24	\$523,000.00		\$0.00	Orchard Avenue (Dry Creek Road to City Limit)
Overlay	Road Overlay	2023-24	\$773,000.00	1/	\$0.00	Solano Avenue (Napa City Limit to Carrell)
Overlay	Road Overlay	2024-25	\$244,267.00		\$0.00	Petrified Forest Rd (Franz Valley to end)
Overlay	Road Overlay	2024-25	\$755,733.00		\$0.00	Petrified Forest Rd (remainder)
Surface Treatment	Road Seal	2024-25	\$68,782.00		\$0.00	Old Howell Mtn Rd (Silverado Trail to 360 S. of Conn Valley Rd)
Surface Treatment	Road Seal	2024-25	\$82,468.00	\$82,468.00	\$0.00	Wooden Valley Rd. (Wooden Valley Cross to Solano County line)
Surface Treatment	Road Seal	2024-25	\$9,379.00	\$9,379.00	\$0.00	Las Amigas (Milton Rd to Buchli)
Surface Treatment	Road Seal	2024-25	\$118,379.00		\$0.00	Las Amigas (Buchli to Duhig Milton Rd to Buchli)
Overlay	Road Overlay	2024-25	\$7,924.00	\$7,924.00	\$0.00	Middle Ave (Los Carneros to Cuttings Wharf)
Overlay	Road Overlay	2024-25	\$12,812.00		\$0.00	Neuschwander Rd (Duhiq to Huichica Crk)
Surface Treatment	Road Seal	2024-25	\$228,660.00	\$228,660.00	\$0.00	Withers Rd (Los Carneros to Carneros Crk)
Surface Treatment	Road Seal	2024-25	\$26,075.00		\$0.00	Bayview Ave (Las Amigas to end)
Surface Treatment	Road Seal	2024-25	\$20,073.00		\$0.00	Buchli Station Road (Las Amigas to end)
Surface Treatment	Road Seal	2024-25	\$1,432,848.00		\$0.00	Cuttings Wharf (Middle Ave to end)
Surface Treatment	Road Seal	2024-25	\$539,814.00	\$539,814.00	\$0.00	<u> </u>
Surface Treatment	Road Seal	2024-25	\$704,591.00		\$0.00	Cuttings Wharf Road (121 to Middle Ave) Dealy Lane (Old Sonoma Rd to Henry)
Surface Treatment	Road Seal	2024-25	\$407,185.00		\$0.00	, ,
Surface Treatment	Road Seal	2024-25	\$407,185.00	\$407,185.00	\$0.00	Duhig (121 to Neuenschwander) Duhig Road (Las Amigas to Sonoma County line)
	111 111		1 7	1 7		3 (3 , ,
Surface Treatment	Road Seal	2024-25	\$21,460.00	, , , , , , ,	\$0.00 \$0.00	Duhig (Neuenschwander to Las Amigas)
Surface Treatment	Road Seal	2024-25	\$202,337.00			Los Carneros Rd (Hwy 121 to Cuttings Wharf Rd)
Surface Treatment	Road Seal	2024-25	\$10,704.00		\$0.00	South Ave (Los Carneros to Carneros Crk)
Surface Treatment	Road Seal	2024-25	\$478,551.00		\$0.00	Sanitarium Rd (Sunnyside Rd to Deer Park End)
Surface Treatment	Road Seal	2024-25	\$462,209.00		\$0.00	Sanitarium Rd (Deer Park N end to Sunnyside Rd)
Surface Treatment	Road Seal	2024-25	\$35,733.00	\$35,733.00	\$0.00	Crystal Springs Road (Sanitarium Rd to Creek Crossing)
Surface Treatment	Road Seal	2024-25	\$40,514.00	\$40,514.00	\$0.00	Crystal Springs Road (Silverado Trail to Creek Crossing)
Surface Treatment	Road Seal	2024-25	\$536,165.00		\$0.00	Glass Mountain Rd (Silverado Trail to Sanitarium)
Surface Treatment	Road Seal	2024-25	\$64,152.00	\$64,152.00	\$0.00	North Fork Crystal Springs (Crystal Spring to end)
Surface Treatment	Road Seal	2024-25	\$4,044.00	\$4,044.00	\$0.00	Rosehaven Lane (Sanitarium to the end)
Surface Treatment	Road Seal	2024-25	\$638,728.00	\$638,728.00	\$0.00	Hardman Ave (Silverado to Atlas Peak)
Surface Treatment	Road Seal	2024-25	\$71,392.00		\$0.00	Bay Street (Newman to Manzanita)
Surface Treatment	Road Seal	2024-25	\$53,050.00	\$53,050.00	\$0.00	Brookside Drive (Howell Mtn Rd to Cottage Rd)
Surface Treatment	Road Seal	2024-25	\$502,750.00	\$502,750.00	\$0.00	College Ave. (Howell Mtn to White Cottage)
Surface Treatment	Road Seal	2024-25	\$182,491.00	\$182,491.00	\$0.00	Clark Way (Eastern to College)
Surface Treatment	Road Seal	2024-25	\$403,383.00		\$0.00	Clark Way (Howell Mtn to Eastern)
Surface Treatment	Road Seal	2024-25	\$8,616.00	\$8,616.00	\$0.00	Diogenes Drive (Brookside Dr to Washburn)
Surface Treatment	Road Seal	2024-25	\$6,720.00	\$6,720.00	\$0.00	Eastern Ave (Clark Ave to Manzanita Ave)
Surface Treatment	Road Seal	2024-25	\$6,016.00	\$6,016.00	\$0.00	Edgewood Place (Clark Way to end)
Surface Treatment	Road Seal	2024-25	\$8,282.00	\$8,282.00	\$0.00	Keyes Ave (White Cottage Rd to Tobin Ave)
Surface Treatment	Road Seal	2024-25	\$110,582.00	\$110,582.00	\$0.00	Liparita Ave (White Cottage to end)
Surface Treatment	Road Seal	2024-25	\$88,682.00		\$0.00	Mariposa Drive (Sky Oaks to end)
Surface Treatment	Road Seal	2024-25	\$8,610.00		\$0.00	Manzanita Drive (Bay St to Eastern Ave)
			40,010.00	40,010.00	Ψ0.00	

Surface Treatment	Road Seal	2024-25	\$17,606.00	\$17,606.00	\$0.00	McReynolds Ct (McReynolds Dr to end)
Surface Treatment	Road Seal	2024-25	\$17,606.00	\$17,606.00	\$0.00	Newton Way (Eastern Ave to Toyon St)
Surface Treatment	Road Seal	2024-25	\$51,680.00	\$51,680.00	\$0.00	Oak St (Deer Park to end)
Surface Treatment	Road Seal	2024-25	\$4,901.00	\$4,901.00	\$0.00	Olive Ave (Keyes Ave to end)
Surface Treatment	Road Seal	2024-25	\$20,073.00	\$20,073.00	\$0.00	Sky Oaks Drive (White Cottage Rd to College Ave)
Surface Treatment	Road Seal	2024-25	\$8,043.00	\$8,043.00	\$0.00	Smith Way (McReynolds Dr to Clark Way)
Surface Treatment	Road Seal	2024-25	\$242,440.00	\$242,440.00	\$0.00	Sunset Drive (Howell Mtn to White Cottage)
Surface Treatment	Road Seal	2024-25	\$500,000.00	\$500,000.00	\$0.00	Sunnyside (Sanitarium to Deer Park to Mund)
Surface Treatment	Road Seal	2024-25	\$9,720.00	\$9,720.00	\$0.00	Tobin Ave (Keyes Ave to end)
Surface Treatment	Road Seal	2024-25	\$97,617.00	\$97,617.00	\$0.00	Toyon Street (White Cottage to Newton)
Surface Treatment	Road Seal	2024-25	\$4,182.00	\$4,182.00	\$0.00	Washburn Street (Diogenes to Sky Oaks)
Surface Treatment	Road Seal	2024-25	\$1,051,235.00	\$1,051,235.00	\$0.00	White Cottage Road (Deer Park to Brookside)
Reconstruction	Road Reconstruction	2024-25	\$1,400,000.00	\$1,400,000.00	\$0.00	Partrick Road (MPM 1.73 to MPM 2.88)
Surface Treatment	Road Seal	2024-25	\$126,400.00	\$126,400.00	\$0.00	Buhman (Napa city limit to Congress Valley Rd)
Surface Treatment	Road Seal	2024-25	\$1,232,150.00	\$1,232,150.00	\$0.00	Deer Park (Silverado Trail to Howell Mountain Road)
Overlay	Road Overlay	2024-25	\$500,000.00	\$500,000.00	\$0.00	Redwood Road (Mt Veeder to end)
Replacement	Bridge Replacement	2024-25	\$9,000,000.00	\$1,000,000.00	\$8,000,000.00	Chiles Pope Valley Road Bridge
Overlay	Road Overlay	2025-26	\$52,919.00	\$52,919.00	\$0.00	Devlin Road (600' S of Airport to Tower)
Overlay	Road Overlay	2025-26	\$50,000.00	\$50,000.00	\$0.00	Devlin Road (Tower to S Kelly)
Overlay	Road Overlay	2025-26	\$500,000.00	\$500,000.00	\$0.00	Loma Vista (Soda Canyon to end)
Overlay	Road Overlay	2025-26	\$101,506.00	\$101,506.00	\$0.00	Oak Knoll (Hwy 29 to Big Ranch)
Overlay	Road Overlay	2025-26	\$150,845.00	\$150,845.00	\$0.00	Silverado Trail (Clover Flat to Dunaweal)
Overlay	Road Overlay	2025-26	\$20,034.00	\$20,034.00	\$0.00	South Terrace (city limit N and S Of Shetler)
Overlay	Road Overlay	2025-26	\$7,723.00	\$7,723.00	\$0.00	Tejas (Imola Ave to city limits S of Muir)
Overlay	Road Overlay	2025-26	\$432,525.00	\$432,525.00	\$0.00	Silverado Trail (city limit to Hwy 29)
Overlay	Road Overlay	2025-26	\$131,414.00	\$131,414.00	\$0.00	Big Tree Road (Hwy 128 to end)
Overlay	Road Overlay	2025-26	\$29,713.00	\$29,713.00	\$0.00	Azalea Springs Way (Hwy 128 to Hwy 128)
Overlay	Road Overlay	2025-26	\$284,129.00	\$284,129.00	\$0.00	Evey Road (Bennet Lane to end)
Overlay	Road Overlay	2025-26	\$62,375.00	\$62,375.00	\$0.00	Greenwood Ave (700' W. of Myrtledale to end)
Overlay	Road Overlay	2025-26	\$17,465.00	\$17,465.00	\$0.00	Lommel Extension (Silverado Trail to end)
Overlay	Road Overlay	2025-26	\$24,915.00	\$24,915.00	\$0.00	Lommel Road (Silverado Trail N to S)
Overlay	Road Overlay	2025-26	\$5,377.00	\$5,377.00	\$0.00	Maple Lane (Hwy 128 to end)
Overlay	Road Overlay Road Overlay	2025-26 2025-26	\$12,697.00	\$12,697.00	\$0.00 \$0.00	Pachateau Road (Diamond Mtn Rd to end) Palisades Road (Hwy 29 to end)
Overlay	Road Overlay Road Overlay	2025-26	\$117,796.00 \$68,536.00	\$117,796.00 \$68,536.00	\$0.00	` , ,
Overlay Overlay	Road Overlay Road Overlay	2025-26	\$33,273.00	\$33,273.00	\$0.00	Peterson Road (Hwy 29 to Tucker) Pickett Road (Silverado Trail to end)
Overlay	Road Overlay	2025-26	\$25,333.00	\$25,333.00	\$0.00	Rosedale Road (Silverado Trail to Pickett Rd)
Overlay	Road Overlay	2025-26	\$87,224.00	\$87,224.00	\$0.00	Scott Way (E to W end)
Overlay	Road Overlay	2025-26	\$152,302.00	\$152,302.00	\$0.00	Shaw Williams Road (Franz Valley School to end)
Overlay	Road Overlay	2025-26	\$53,511.00	\$53,511.00	\$0.00	Tucker Road (Hwy 29 to Peterson)
Overlay	Road Overlay	2025-26	\$161,481.00	\$161,481.00	\$0.00	Airpark Road (Airport Rd to Technology
Overlay	Road Overlay	2025-26	\$220,600.00	\$220,600.00	\$0.00	Airpark Road (Airport to Devlin)
Surface Treatment	Road Seal	2025-26	\$5,163.00	\$5,163.00	\$0.00	Alexis Court (Technology Wy to end)
Surface Treatment	Road Seal	2025-26	\$6,781.00	\$6,781.00	\$0.00	Aviation Way (Airport to end)
Surface Treatment	Road Seal	2025-26	\$5,227.00	\$5,227.00	\$0.00	Café Court (S. Kelly to end)
Surface Treatment	Road Seal	2025-26	\$29,480.00	\$29,480.00	\$0.00	Camino Dorado (N. Kelly to end)
Surface Treatment	Road Seal	2025-26	\$12,146.00	\$12,146.00	\$0.00	Camino Oruga (Camino Dorado to end)
Surface Treatment	Road Seal	2025-26	\$72,265.00	\$72,265.00	\$0.00	Executive Court (Executive Way to end)
Surface Treatment	Road Seal	2025-26	\$31,590.00	\$31,590.00	\$0.00	Executive Way (N. Kelly to end)
Surface Treatment	Road Seal	2025-26	\$190,166.00	\$190,166.00	\$0.00	Gateway Drive (Airport to Technology)
Surface Treatment	Road Seal	2025-26	\$14,801.00	\$14,801.00	\$0.00	Gateway East (Devlin to end)
Surface Treatment	Road Seal	2025-26	\$15,089.00	\$15,089.00	\$0.00	Gateway West (Devlin to 303 Gateway)
Surface Treatment	Road Seal	2025-26	\$17,121.00	\$17,121.00	\$0.00	Gateway West (303 Gateway to Technology)
Surface Treatment	Road Seal	2025-26	\$66,441.00	\$66,441.00	\$0.00	Green Island Road (County limit to end)
Surface Treatment	Road Seal	2025-26	\$42,095.00	\$42,095.00	\$0.00	Greenwood Road (S. Kelly to S. Kelly)
Surface Treatment	Road Seal	2025-26	\$5,115.00	\$5,115.00	\$0.00	Harlow Court (Airpark to end)
Surface Treatment	Road Seal	2025-26	\$8,949.00	\$8,949.00		Morris Court (Technology to end)
Surface Treatment	Road Seal	2025-26	\$10,686.00	\$10,686.00	\$0.00	Sheehy Court (Devlin to end)
Surface Treatment	Road Seal	2025-26	\$7,775.00	\$7,775.00	\$0.00	Skyway Court (Airpark to end)
Surface Treatment	Road Seal	2025-26	\$9,913.00	\$9,913.00	\$0.00	Technology Court (Technology Way to end)
Surface Treatment	Road Seal	2025-26	\$21,086.00	\$21,086.00	\$0.00	Technology Way (Gateway RD. West to Airpark)
Surface Treatment	Road Seal	2025-26	\$31,342.00	\$31,342.00	\$0.00	Technology Way (Airpark to 1430" west of Gateway West)
Surface Treatment	Road Seal	2025-26	\$17,709.00	\$17,709.00	\$0.00	Technology Way (Gateway Rd. West to 1430' West)
Surface Treatment	Road Seal	2025-26	\$10,000.00	\$10,000.00	\$0.00	Watson Lane (American Canyon city limit to end)
Surface Treatment	Road Seal	2025-26	\$100,161.00	\$100,161.00	\$0.00	South Kelly (Hwy 12 to Hwy 29) Soscol Ferry Rd. (Hwy 29 to Vista Point)
Surface Treatment Surface Treatment	Road Seal Road Seal	2025-26 2025-26	\$310,541.00	\$310,541.00 \$23,584.00	\$0.00 \$0.00	Vista Point Drive (Soscol Ferry Rd to Napa city limit)
Surface Treatment	Road Seal	2025-26	\$23,584.00 \$497,513.00	\$497,513.00	\$0.00	Devlin Road (Soscol Ferry to 2860' south)
Surface Treatment		2025-26	\$36,443.00	\$36,443.00	\$0.00	Devlin Road (Soscol Ferry to 2000 South) Devlin Road (Airport Blvd. to Bronco)
Surface freatifient	Road Seal	2023-20	\$30,443.UU	930,443.00	\$0.00	Deviiii Kodu (Aii port biva. to broilco)

Courfe and Township and	David Card	12025.26	±17.2F0.00	#17.250.00	#0.00	Devilia Deed (Durane to 6000) essetto of Airesont
Surface Treatment	Road Seal Road Seal	2025-26	\$17,258.00	\$17,258.00	\$0.00	Devlin Road (Bronco to 6000' south of Airpark)
Surface Treatment Surface Treatment	Road Seal	2025-26 2025-26	\$1,651,426.00 \$149,616.00	\$1,651,426.00 \$149,616.00	\$0.00 \$0.00	Soda Canyon Road (Loma Vista to bridge at 3.0) Soda Springs (Soda Canyon Rd to end)
Surface Treatment	Road Seal	2025-26	\$149,010.00	\$149,010.00	\$0.00	Stanton Dr. (Inglewood to Lydia)
Surface Treatment	Road Seal	2025-26	\$96,604.00	\$96,604.00	\$0.00	White Sulphur Springs (SHCL to east side of bridge)
Surface Treatment	Road Seal	2025-26	\$50,000.00	\$50,000.00	\$0.00	Cook Road (Yount Mill Rd to end)
Surface Treatment	Road Seal	2025-26	\$50,000.00	\$50,000.00	\$0.00	Imola Ave. (4th Ave to Penny Ln)
Repair	Bridge Repair	2025-26	\$1,100,000.00	\$100,000.00		Partrick Rd. Bridge MPM0.9
Replacement	Bridge Replacement	2025-26	\$470,000.00	\$470,000.00	\$0.00	Dry Creek Road Bridge MPM 10.0
Repair	Bridge Repair	2025-26	\$150,000.00	\$150,000.00	\$0.00	Greenwood Ave Bridge over Garnett Creek
Surface Treatment	Road Seal	2026-27	\$58,973.00	\$58,973.00	\$0.00	McGary Rd. (County Limit to end)
Surface Treatment	Road Seal	2026-27	\$108,276.00	\$108,276.00	\$0.00	Silverado Trail (Zinfandel to 5500' S of Howell Mtn)
Surface Treatment	Road Seal	2026-27	\$84,189.00	\$84,189.00	\$0.00	Silverado Trail (5500' S of Howell Mtn to 1540' S of HM)
Surface Treatment	Road Seal	2026-27	\$112,051.00	\$112,051.00	\$0.00	Silverado Trail (Larkmead to Clover Flat)
Surface Treatment	Road Seal	2026-27	\$90,957.00	\$90,957.00	\$0.00	Silverado Trail (Dunaweal to Calistoga city limit)
Overlay	Road Overlay	2026-27	\$43,489.00	\$43,489.00	\$0.00	Ironwood Ct (Ridgecrest to end)
Overlay	Road Overlay	2026-27	\$22,037.00	\$22,037.00	\$0.00	Lookout Dr (Juniper to end)
Overlay	Road Overlay	2026-27	\$89,103.00	\$89,103.00	\$0.00	Beechwood Ct (Ridgecrest to end)
Overlay	Road Overlay	2026-27	\$684,110.00	\$684,110.00	\$0.00	Circle Oaks (SR 121 to end)
Overlay	Road Overlay	2026-27	\$52,524.00	\$52,524.00	\$0.00	Rock Rose Ct (Circle Oaks to end)
Overlay	Road Overlay	2026-27	\$582,862.00	\$582,862.00	\$0.00	Country Club Lane (Circle Oaks to end)
Overlay	Road Overlay	2026-27	\$178,265.00	\$178,265.00	\$0.00	Cottonwood Ct (Country Club to end)
Overlay	Road Overlay	2026-27	\$178,203.00	\$178,203.00	\$0.00	Chestnut Ct (Country Club to end)
Overlay	Road Overlay	2026-27	\$432,255.00	\$432,255.00	\$0.00	Zinnia Ln (Circle Oaks to Country Club)
Overlay	Road Overlay	2026-27	\$82,334.00	\$82,334.00	\$0.00	Glen Ct (Zinnia to end)
Overlay	Road Overlay	2026-27	\$229,234.00	\$229,234.00	\$0.00	Columbine Ct (Country Club to end)
Overlay	Road Overlay	2026-27	\$301,258.00	\$301,258.00	\$0.00	Juniper Dr (Country Club to end)
Overlay	Road Overlay	2026-27	\$416,587.00	\$416,587.00	\$0.00	Sunnyhill Ln (Circle Oaks to Country Club)
Overlay	Road Overlay	2026-27	\$221,864.00	\$221,864.00	\$0.00	Redbud Ct (Sunnyhill to end)
Overlay	Road Overlay	2026-27	\$276,892.00	\$276,892.00	\$0.00	Sorrel Ct (Sunnyhill to end)
Overlay	Road Overlay	2026-27	\$105,245.00	\$105,245.00	\$0.00	Blackwood Ct (Sunnyhill to end)
Overlay	Road Overlay	2026-27	\$156,342.00	\$103,243.00	\$0.00	Ridgecrest Ct (Country Club to end)
Overlay	Road Overlay	2026-27	\$548,725.00	\$548,725.00	\$0.00	Ridgecrest Dr (Circle Oaks to end)
Overlay	Road Overlay	2026-27	\$264,532.00	\$264,532.00	\$0.00	Boxelder Ct (Circle Oaks to end)
Overlay	Road Overlay	2026-27	\$65,841.00	\$65,841.00	\$0.00	Dogwood Ct (Ridgecrest Dr to end)
Overlay	Road Overlay	2026-27	\$232,335.00	\$232,335.00	\$0.00	Catalpa Ct (Circle Oaks to end)
Overlay	Road Overlay	2026-27	\$93,781.00	\$93,781.00	\$0.00	Kirkland Avenue (Coombsville - East 3rd Ave to end)
Overlay	Road Overlay	2026-27	\$710,827.00	\$710,827.00	\$0.00	Third Avenue (Coombsville to North Ave to Hagen Rd)
Overlay	Road Overlay	2026-27	\$93,343.00	\$93,343.00	\$0.00	Coombsville Rd. (city limit to 2nd Ave)
Overlay	Road Overlay	2026-27	\$19,000.00	\$19,000.00	\$0.00	Meadowood Lane (Howell Mtn Rd to Meadowood Rd)
Overlay	Road Overlay	2026-27	\$116,715.00	\$116,715.00	\$0.00	Meadowood Rd (Silverado Trail to 300' W of Meadowood Ln)
Overlay	Road Overlay	2026-27	\$715,858.00	\$715,858.00	\$0.00	
Overlay	Road Overlay	2026-27	\$577,762.00	\$577,762.00	\$0.00	Gordon Valley Road (7500' N of County line to end)
Overlay	Road Overlay	2026-27	\$1,013,760.00	\$1,013,760.00	\$0.00	Solano Ave. (Carrell to Hoffman)
Overlay	Road Overlay	2026-27	\$366,177.00	\$366,177.00	\$0.00	Solano Ave. (Hoffman to Yountville)
Overlay	Road Overlay	2026-27	\$150,010.00	\$150,010.00	\$0.00	Oakville Grade (SR 29 to Dry Creek)
Overlay	Road Overlay	2026-27	\$1,000,000.00	\$1,000,000.00	\$0.00	Berryessa Knoxville (128 to Spanish Flat)
Overlay	Road Overlay	2026-27	\$988,800.00	\$988,800.00	\$0.00	Pope Canyon Rd. (Pope Creek Bridge to 9000' East)
Overlay	Road Overlay	2026-27	\$988,800.00	\$988,800.00	\$0.00	Chiles Pope (Lower Chiles to 9000' North)
Overlay	Road Overlav	2026-27	\$988,800.00	\$988,800.00	\$0.00	Chiles Pope (9000' North of Lower Chiles to 18000' North)
Reconstruction	Road Reconstruction	2027-28	\$7,500,000.00	\$1,300,000.00	\$6,200,000.00	Berryessa Knoxville FLAP II (Hwy 128 to Smittle Crk day area)
Surface Treatment	Road Seal	2027-28	\$23,371.00	\$23,371.00	\$0.00	Glass Mtn Cross (Sanitarium to Glass Mtn)
Surface Treatment	Road Seal	2027-28	\$557,658.00	\$557,658.00	\$0.00	Silverado Trail (Skellenger to 6000' S. of Conn Creek)
Surface Treatment	Road Seal	2027-28	\$556,452.00	\$556,452.00		Silverado Trail (6000 ft. S. of Conn Creek to Bridge at Conn Creek)
Surface Treatment	Road Seal	2027-28	\$1,230,945.00	\$1,230,945.00	\$0.00	Golden Gate Drive (city limit to Stanley)
Surface Treatment	Road Seal	2027-28	\$35,519.00	\$35,519.00	\$0.00	Henry Road (Buhman to Healy Ln to end)
Surface Treatment	Road Seal	2027-28	\$32,631.00		\$0.00	McKinnon Road (Los Carneros to end)
Surface Treatment	Road Seal	2027-28	\$17,168.00	\$17,168.00	\$0.00	
Surface Treatment	Road Seal	2027-28	\$154,710.00	\$154,710.00	\$0.00	Sunset Road (Congress Valley to end)
Surface Treatment	Road Seal	2027-28	\$609,026.00	\$609,026.00	\$0.00	Thompson Ave. (Valleywood to Congress Valley)
Surface Treatment	Road Seal	2027-28	\$952,375.00	\$952,375.00	\$0.00	Congress Valley Rd (Old Sonoma Rd to Buhman)
Surface Treatment	Road Seal	2027-28	\$8,014.00	\$8,014.00	\$0.00	Forest Dr (Redwood to city limit)
Surface Treatment	Road Seal	2027-28	\$729,300.00	\$729,300.00		Redwood Rd (City Limit just west of W. Pueblo Dr to Mt. Veeder Rd)
Surface Treatment	Road Seal	2027-28	\$1,080,489.00	\$1,080,489.00	\$0.00	Redwood Rd (Mt Veeder Rd to 9000' past)
Surface Treatment	Road Seal	2027-28	\$204,863.00	\$204,863.00	\$0.00	Carol Dr (Kathleen to Pueblo)
Surface Treatment	Road Seal	2027-28	\$18,334.00	\$18,334.00	\$0.00	Joyce Ct (Sandra to end)
Surface Treatment	Road Seal	2027-28	\$113,334.00	\$113,334.00	\$0.00	Pamela Dr (Carol to Marjorie)
Surface Treatment	Road Seal	2027-28	\$19,136.00	\$19,136.00	\$0.00	Burnette Ct (city limit to end)
Surface Treatment	Road Seal	2027-28	\$60,427.00	\$60,427.00	\$0.00	Edith Ct. (S end to N end)
			+ 30/ .27.100	+ 30/	45.00	

Surface Treatment	Road Seal	2027-28	\$9,549.00	\$9,549.00	\$0.00	Janette Ct (Janette Drive to end)
Surface Treatment	Road Seal	2027-28	\$262,849.00	\$262,849.00	\$0.00	Carol Dr (Redwood to Kathleen)
Surface Treatment	Road Seal	2027-28	\$8,981.00	\$8,981.00	\$0.00	Alberta Dr (Barbara to Norman)
Surface Treatment	Road Seal	2027-28	\$14,745.00	\$14,745.00	\$0.00	Barbara Rd (Sherry to city limit)
Surface Treatment	Road Seal	2027-28	\$6,866.00	\$6,866.00	\$0.00	Morlan Dr (city limit to end)
Surface Treatment	Road Seal	2027-28	\$11,818.00	\$11,818.00	\$0.00	Norma Dr (W. Pueblo to Alberta)
						,
Surface Treatment	Road Seal	2027-28	\$219,245.00	\$219,245.00	\$0.00	Janette Dr (Carol to Kathleen)
Surface Treatment	Road Seal	2027-28	\$34,968.00	\$34,968.00	\$0.00	Kathleen Dr (Solano to Janette)
Surface Treatment	Road Seal	2027-28	\$50,315.00	\$50,315.00	\$0.00	Lonnie Dr (Ethel Porter to Ruth)
Surface Treatment	Road Seal	2027-28	\$27,928.00	\$27,928.00	\$0.00	Ruth Dr (Lonnie to Majorie)
Surface Treatment	Road Seal	2027-28	\$222,851.00	\$222,851.00	\$0.00	Kathleen Dr (Janette to Carol))
Surface Treatment	Road Seal	2027-28	\$116,753.00	\$116,753.00	\$0.00	Kathleen (Carol to city limit)
Surface Treatment	Road Seal	2027-28	\$103,097.00	\$103,097.00	\$0.00	Sherry Dr (city limit Linda Vista to city limit Norma Dr)
Surface Treatment	Road Seal	2027-28	\$151,569.00	\$151,569.00	\$0.00	Thomas Dr (Janette to West Pueblo)
Surface Treatment	Road Seal	2027-28	\$141,815.00	\$141,815.00	\$0.00	Verna (Solano to end)
Surface Treatment	Road Seal	2027-28	\$4,936.00	\$4,936.00	\$0.00	Pueblo Place (Morlan to Napa city limit)
Surface Treatment	Road Seal	2027-28	\$2,690,254.00	\$2,690,254.00	\$0.00	Steel Canyon (Rimrock to 13,200' north of Hwy 128)
Surface Treatment	Road Seal	2027-28	\$2,026,216.00	\$2,026,216.00	\$0.00	Steele Canyon (Hwy 128 to 13,200' North)
Surface Treatment	Road Seal	2027-28	\$33,372.00	\$33,372.00	\$0.00	Live Oak (Mulford to end)
			\$79,493,868.00	\$64,293,868.00	\$15,200,000.00	Total
	·			Measure T		
Equivalent Fund Source	Project Description	Fiscal Year	Total Project Cost	Equivalent	Other Funds	Location (intersection, mile marker, length of alignment)
1				Amount		
General Fund	Vine Trail - Yountville to St. Helena	2024/2025	\$ 16,500,000.00	\$3,000,000.00	\$13,500,000.00	Yountville to St. Helena

Program Definitions:

Surface Treatment includes: slurry seal, fog seal, chip seal, microseal, etc.

Overlay - asphalt resurfacing

Reconstruction - includes in or all components associated with complete reconstruction of the roadway including road bed, widening to meet complete streets requirements, and paving Concrete work - includes ramps, sidewalks, curbs, gutters, and pavement

Drainage - includes any work required to address water run off and drainage including culverts, etc. associated with a roadway

Safety includes lights, signage, striping, traffic signals and pavement markings

Intelligent Traffic Systems - includes traffic signal interconnects or other systems to improve traffic management/operations and safety on roadways

Note: Final project list to be determined, depending on available revenues and when revenues become available, but distributed proportionately unless otherwise agreed to as part of a funding exchange proportionately as outlined in the Measure T Expenditure Plan. Prior to any allocation, jurisdictions will also be required to submit all of the necessary documentation requested above as well as a Resolution of support of the proposed project list. Requirements associated with the Class 1 Bike Facility expenditures to be agreed upon between the jurisdictions and memorialized in resolutions of support by affected jurisdictions.

Note: The above Program Definitions and listed project types are not all-inclusive. Other project types and/or means and methods may be included in the work plan provided the type of work is consistent with the intent of the Measure T Ordinance language.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1946

TO: **Board of Supervisors**

FROM: Steven Lederer, Director of Public Works

REPORT BY: Mark Witsoe, Airport Manager

SUBJECT: Grant of Easement to Pacific Gas & Electric Company at Napa County Airport

RECOMMENDATION

Director of Public Works requests approval of and authorization for the Chair to sign an Easement Deed in favor of Pacific Gas & Electric Company (PG&E) for an area of approximately 5,000 square feet on Napa County Airport property to allow for the installation of an underground electrical line.

EXECUTIVE SUMMARY

Commercial agreements with Napa Jet Center, Inc. and SkyServiceUS California, LLC ("Lessees"), were approved by the Board on December 6, 2022. The agreements established multi-party commitments to redevelop the airport terminal areas. The County committed to redevelop the leaseholds into a condition suitable for the Lessees to build their customer lobbies and large aircraft hangars. As an incidental part of the County work, County coordinated with PG&E for the relocation of electrical distribution to facilitate development. The proposed easement allows PG&E to change a pole and add new underground lines as a prerequisite for certain County project work elements.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No Is it currently budgeted? No

Is it Mandatory or Discretionary? Discretionary

Discretionary Justification: The Napa County Airport committed to relocating certain utilities,

> clearing the way for both fixed base operators' (FBO) Lessee development efforts. This PG&E project and Easement is necessary to comply with BOS executed contracts with both

entities, to be completed in Spring 2024.

Is the general fund affected? No

Future fiscal impact: None. Easement and PG&E project is no cost to the County as this

project is along a public road and benefits several PG&E

customers.

Consequences if not approved: The existing easement and PG&E Equipment will remain in place

and upcoming FBO development will not be possible.

File ID #: 23-1946 **Board of Supervisors Agenda Date:** 12/5/2023

County Strategic Plan pillar addressed: Collaborative and Engaged Community

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

PG&E has requested to obtain a new easement from the County on airport property in order to relocate a main power pole and place existing aboveground power, underground to increase their electrical load capabilities for new development on airport property. In total, the new easement is approximately 5,000 square feet in size and runs parallel to Airport Road East. The proposed easement location is near Airport Road, and is clear of any runway, taxiway, or apron area, and is anticipated to deconflict existing infrastructure with future development at the airport. The infrastructure improvement is needed to provide additional power to the Fixed Based Operators, the entirety of Airport property, and the Napa Logistics Park.

Staff has worked with PG&E to apply for, assist with design, and craft an easement grant deed that addresses items such as airport safety and security as required by the Federal Aviation Administration (FAA). The proposed easement also further deconflicts leased areas previously committed to both Fixed Based Operators.

For the relocation of power poles and underground electrical infrastructure, there is no cost to the Airport or County as this service is on a public road and services both the County and other customers. Section 25526.5 of the Government Code allows the County to grant or otherwise convey an easement, provided the Board makes a finding that the property is no longer needed for County purposes and the estimated value of the easement does not exceed twenty-five thousand dollars (\$25,000).

Following approval of the proposed easement, PG&E will begin construction of the new pole and relocation of primary power along an underground path to a point of reconnection. Removal of the existing transformers, associated equipment, and guy wire poles that are the last barrier demolishing the former Airport Terminal located at 2030 Airport Road. Once PG&E work is complete, a request to accept a quitclaim for two existing easements associated with the removed facilities will be brought forward for consideration.

RECORDING REQUESTED BY AND RETURN TO:

PACIFIC GAS AND ELECTRIC COMPANY 300 Lakeside Drive, Suite 210 Oakland, CA 94612 Attn: Land Rights Library

Location: City/Uninc
•
Recording Fee \$
Document Transfer Tax \$
[] This is a conveyance where the consideration and
Value is less than \$100.00 (R&T 11911).
[] Computed on Full Value of Property Conveyed, or
[] Computed on Full Value Less Liens
& Encumbrances Remaining at Time of Sale
[] Exempt from the fee per GC 27388.1 (a) (2); This
document is subject to Documentary Transfer Tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

Signature of declarant or agent determining tax

LD# 2404-04-10048

EASEMENT DEED

PM# 35466059

COUNTY OF NAPA, a political subdivision of the State of California,

hereinafter called Grantor, hereby grants to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called Grantee, the right from time to time to excavate for, construct, reconstruct, replace (of initial or any other size), remove, maintain, inspect, and use facilities and associated equipment for public utility purposes, including, but not limited to electric, gas, and communication facilities, together with a right of way therefor, on, over, and under the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands of Grantor situated in the unincorporated area of the County of Napa, State of California, described as follows:

(APN 057-050-009)

The parcel of land described in the deed from J. B. Almada and wife to County of Napa dated June 21, 1944 and recorded in Book 216 of Official Records at page 77, Napa County Records.

The easement area is described as follows:

The strip of land described in Exhibit "A" and shown on Exhibit "B" attached hereto and made a part hereof.

Grantor further grants to Grantee the right, from time to time, to trim or to cut down, without Grantee paying compensation, any and all trees and brush now or hereafter within said easement area, and shall have the further right, from time to time, to trim and cut down trees and brush along each side of said easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the

Utility Distribution Easement (02/2020)

D-4-1

facilities installed hereunder, or as Grantee deems necessary to comply with applicable state or federal regulations.

Grantor also grants to Grantee the right to use such portion of said lands contiguous to said easement area as may be reasonably necessary in connection with the excavation, construction, replacement, removal, maintenance and inspection of said facilities.

Grantor hereby covenants and agrees not to place or construct, nor allow a third party to place or construct, any building or other structure, or store flammable substances, or drill or operate any well, or construct any reservoir or other obstruction within said easement area, or diminish or substantially add to the ground level within said easement area, or construct any fences that will interfere with the maintenance and operation of said facilities.

Grantor further grants to Grantee the right to apportion to another public utility (as defined in Section 216 of the California Public Utilities Code) the right to excavate for, construct, reconstruct, replace, remove, maintain, inspect, and use the communications facilities within said easement area including ingress thereto and egress therefrom.

Grantor acknowledges that they have read the "Grant of Easement Disclosure Statement", Exhibit "C", attached hereto and made a part hereof.

This document may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

Dated:,
COUNTY OF NAPA, a political subdivision of the State of Californi
ByBELIA RAMOS, Chair Napa County Board of Supervisors

"COUNTY"

	APPROVED AS TO FORM	APPROVED BY THE NAPA COUNTY	ATTEST: NEHA HOSKINS
	Office of County Counsel	BOARD OF SUPERVISORS	Clerk of the Board of Supervisors
By: _	County Counsel	Date: Processed By:	By:
Date	: 11/20/2023	Deputy Clerk of the Board	

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 ______) _____, before me, _____ On _____ Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal. (Seal) Signature of Notary Public **CAPACITY CLAIMED BY SIGNER** [] Individual(s) signing for oneself/themselves [] Corporate Officer(s) of the above named corporation(s) Trustee(s) of the above named Trust(s) Partner(s) of the above named Partnership(s) [] Attorney(s)-in-Fact of the above named Principal(s) [] Other

EXHIBIT 'A' **UTILITY EASEMENT**

Lying within Section 2, Township 4 North, Range 4 West, Mount Diablo Meridian and lying over a portion of the lands of the County of Napa as described in Book 216 of Official Records at Page 77, Napa County Records, being a 10-foot-wide strip lying 5 feet on each side of the following described centerline:

Commencing at a rebar with cap tagged "RCE33483" lying on the southerly right-of-way of Airport Road as shown on that Record of Survey filed in Book 49 of Surveys at Pages 67 through 69, Napa County Records; thence along said southerly right-of-way of Airport Road, North 89°23'10" West, 682.16 feet to a rebar with cap tagged "RCE33483" as shown on said Record of Survey; thence leaving said right-of-way, South 7°58'44" East, 651.71 feet to the POINT OF BEGINNING of the herein described centerline; thence from said POINT OF BEGINNING, South 27°18'46" East, 5.00 feet to a point on the centerline of an existing pole line easement as described by that pole line easement described in Book 864 of Official Records, at Page 25, Official Records of Napa County; thence continuing South 27°18'46" East, 495.00 feet to the terminus of the herein described centerline.

Containing 5,000 Square Feet more or less.

END OF DESCRIPTION

Being a portion of APN 057-050-009-000

Basis of Bearings: Being North 89°23'10" West between found rebars tagged "RCE 33483" as shown on that Record of Survey filed in Book 49 of Surveys at Pages 67-69, Napa County Records

Prepared by Cinquini & Passarino, Inc.

nthony G. Cinquini P.L.S. 8614

Santa Rosa, CA 95401

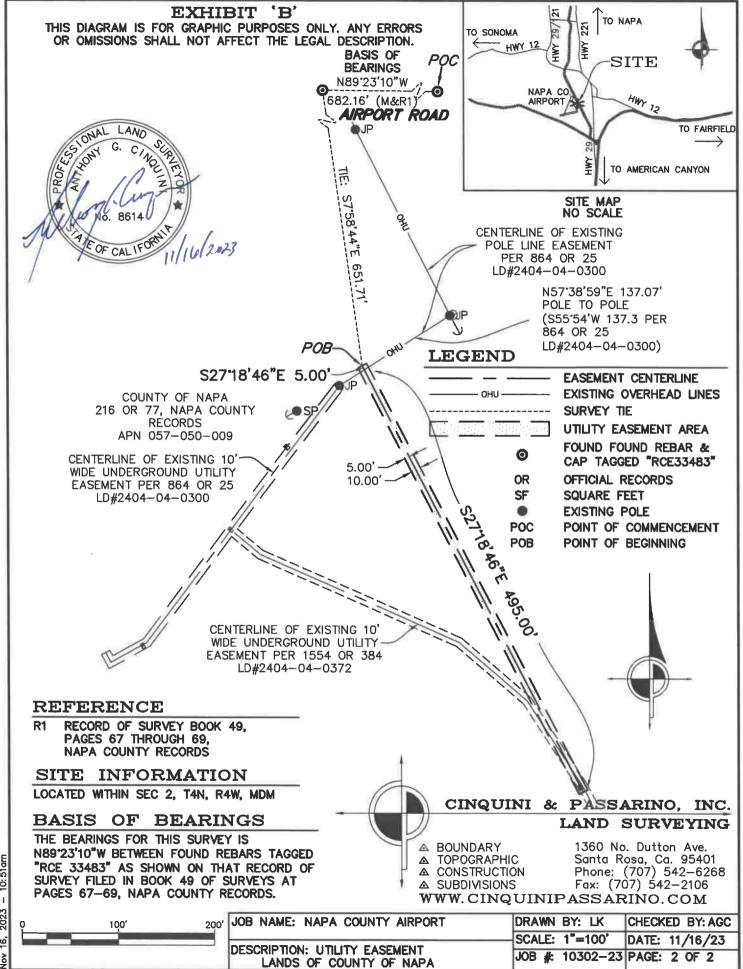
Cinquini & Passarino, Inc. 1360 North Dutton Avenue, Suite 150

Page 1 of 2

CPI No.: 10302-23 Tel: (707) 542-6268 Fax: (707) 542-2106 www.cinquinipassarino.com

11/16/2023

Date



Pacific Gas and Electric Company



EXHIBIT "C"

GRANT OF EASEMENT DISCLOSURE STATEMENT

This Disclosure Statement will assist you in evaluating the request for granting an easement to Pacific Gas and Electric Company (PG&E) to accommodate a utility service extension to PG&E's applicant. Please read this disclosure carefully before signing the Grant of Easement.

- You are under no obligation or threat of condemnation by PG&E to grant this easement.
- The granting of this easement is an accommodation to PG&E's applicant requesting the extension of PG&E utility facilities to the applicant's property or project. Because this easement is an accommodation for a service extension to a single customer or group of customers, PG&E is not authorized to purchase any such easement.
- By granting this easement to PG&E, the easement area may be used to serve additional customers in the area and **may be used to install additional utility facilities.** Installation of any proposed facilities outside of this easement area will require an additional easement.
- Removal and/or pruning of trees or other vegetation on your property may be necessary for the installation of PG&E facilities. You have the option of having PG&E's contractors perform this work on your property, if available, or granting permission to PG&E's applicant or the applicant's contractor to perform this work. Additionally, in order to comply with California fire laws and safety orders, PG&E or its contractors will periodically perform vegetation maintenance activities on your property as provided for in this grant of easement in order to maintain proper clearances from energized electric lines or other facilities.
- The description of the easement location where PG&E utility facilities are to be installed across your property must be satisfactory to you.
- The California Public Utilities Commission has authorized PG&E's applicant to perform the installation of certain utility facilities for utility service. In addition to granting this easement to PG&E, your consent may be requested by the applicant, or applicant's contractor, to work on your property. Upon completion of the applicant's installation, the utility facilities will be inspected by PG&E. When the facility installation is determined to be acceptable the facilities will be conveyed to PG&E by its applicant.

By signing the Grant of Easement, you are acknowledging that you have read this disclosure and understand that you are voluntarily granting the easement to PG&E. Please return the signed and notarized Grant of Easement with this Disclosure Statement attached to PG&E. The duplicate copy of the Grant of Easement and this Disclosure Statement is for your records.

Utility Distribution Easement (02/2020)
Attach to LD: 2404-04-10048
Area, Region or Location: 7
Land Service Office: Santa Rosa

Line of Business: Electric Distribution (43)

Business Doc Type: Easements

MTRSQ: 24.04.04.02.32, 24.04.04.02.23

FERC License Number: N/A PG&E Drawing Number: N/A

Plat No.: NN3917

LD of Affected Documents: N/A

LD of Cross Referenced Documents: 2404-04-0300, 2404-04-0372

Type of interest: Electric Underground Easements (4), Utility Easement (86)

SBE Parcel: N/A

% Being Quitclaimed: N/A Order or PM: 35466059

JCN: N/A County: Napa

Utility Notice Number: N/A

851 Approval Application No: N/A ;Decision: N/A

Prepared By: cwj6

Checked By: cssb _cssb

Approved By: Revised by:

ProjectWise\Pacific Gas & Electric Co\Santa Rosa Distribution\Archive\R_W 2023\Napa\35466059 -

2044 Airport Rd, Napa



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1883

TO: Board of Supervisors

FROM: Ryan J. Alsop, County Executive Officer

REPORT BY: Daniel Sanchez, Senior Management Analyst

SUBJECT: Presentation by Deputy County Fire Chief

RECOMMENDATION

Deputy County Fire Chief will provide an annual report of fire preparedness and response.

EXECUTIVE SUMMARY

Deputy Fire Chief Martin will provide an annual report, provide an opportunity for discussion, and will answer related questions, for Board direction and possible action.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?

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

During the fire season, it is standard practice for Deputy County Fire Chief Martin to provide an annual report of the fire season and provide an opportunity for discussion and will answer related questions, for Board direction and possible action.

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1883

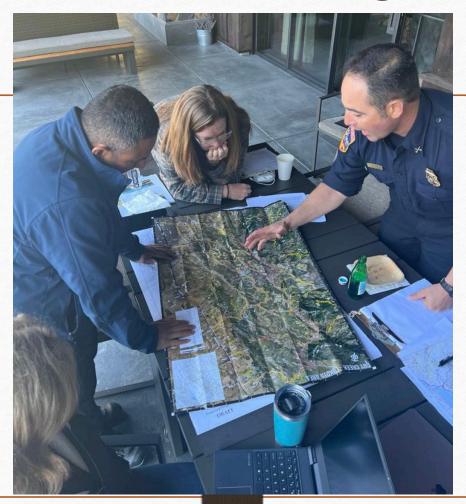
2023 Napa County Fire End of The Year

Fire Resiliency Progress Presentation

State Fire Statistics Since 2020

- **2020** Total of 8,648 Fires and a total of 4,304,379 Acres Burned
- **2021** Total of 7,396 Fires and a total of <u>2,569,386</u> Acres Burned
- 2022 Total of 7,477 Fires and a total of 331,358 Acres Burned
- 2023 Total of 6,850 Fires and a total of 319,927 Acres Burned

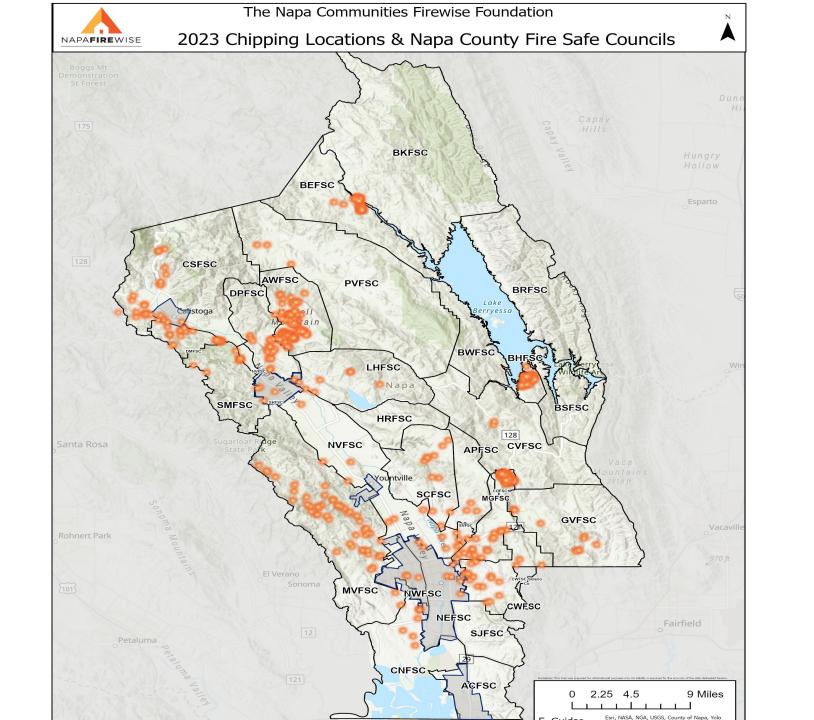
2020 - Planning



Chipping Totals

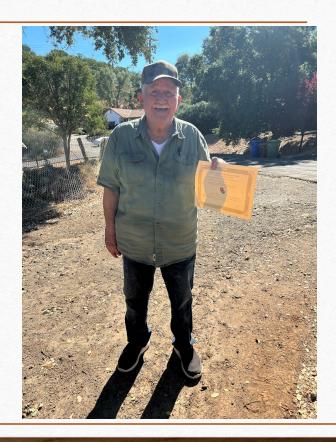
- 2020 1,077 Requests completed with 144,989.93 cubic yards chipped
- 2021 1,157 Requests completed with 106,559.70 cubic yards chipped
- 2022 822 Requests completed with 55,445.67 cubic yards chipped
- 2023 1,193 Requests completed with 79,714.07 cubic yards chipped

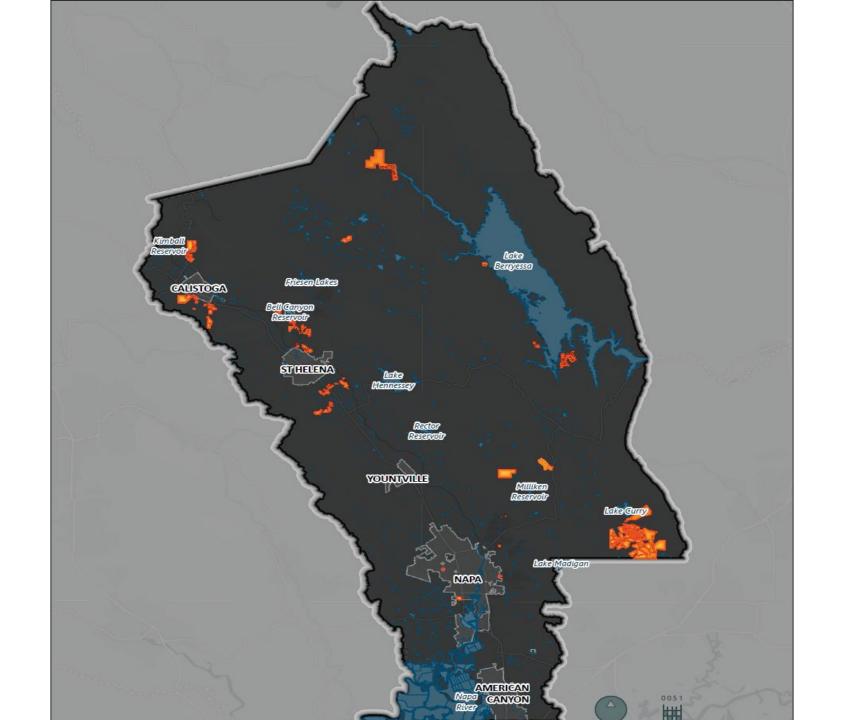




Defensible Space Inspections

- **2020** 900 Inspections Completed
- 2021- 1,923 Inspections Completed
- 2022 2,354 Inspections Completed
- 2023 2,522 Inspections Completed





Consulting Inspections



Shaded Fuel Breaks Acres Treated

- **2021** 350 Acres Treated
- **2022** 287 Acres Treated
- **2023** 633 Acres Treated



Roadside Clearing Miles

- **2021** 10 Miles Treated
- **2022** 75 Miles Treated
- **2023** 134 Miles Treated



Strategic Dozer Miles

- **2021** 0 Miles Treated
- **2022** 4 Miles Treated
- **2023** 69 Miles Treated





Grazed Acres

- **2021** 0 Acres Treated
- **2022** 0 Acres Treated
- **2023** 353 Acres Treated



Recap

2023 Totals

- Shaded Fuel Breaks Acres Treated: 633
- Roadside Clearing Miles: 134
- Grazed Acres: 353
- Strategic Dozer Miles: 69

2021 - 2023 Totals

- Shaded Fuel Breaks Acres Treated: 2,356
- Roadside Clearing Miles: 219
- Grazed Acres: 353
- Strategic Dozer Miles: 73

Fuels Reduction Money Spent

- **2021** \$4.5 Million
- **2022** \$6.1 Million
- **2023** \$9.6 Million

Reflect to Protect Address Signs

- 6 Fire Safe Council Communities received Free Address Signs
- Diamond Mountain, Angwin, Spring Mountain, Coombsville/WildHorse Valley, Calistoga, Pope Valley Estates Fire Safe Councils
- A total of 1,187 Address Signs Were Printed and Installed
- \$27,732.87 Spent on Signs



Firewise Defensible Space Cost Share Program

- 320 Properties Participated
- \$307,754 Spent by Property Owners
- \$100,683 Reimbursed to Property Owners

Pacific Union College Forest

- \$1,096,012 Spent on Fuels Reduction Efforts
- 184 Acres Masticated
- 60 Acres of Hand Thinning



Public Education

- Wildfire Resource Fair Napa Valley Vintners and Napa Grapegrowers
- Wildfire Summit Napa Valley Community Foundation
- Fire Preparedness Fairs with Board of Supervisors
- Angwin, Deer Park and Pope Valley Communications Meeting
- Public Events
- Fire Safe Council Meetings
- Town Hall Meetings



2023 Highlights

- Fuel Mapper
- Engine Days
- Tablet Command
- Motorola Radios
- Artificial Intelligence Cameras
- Additional Field Staffing
- Station 30 added to Amador Contract





Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1900

TO: **Board of Supervisors**

FROM: Ryan J. Alsop, County Executive Officer

REPORT BY: Jennifer Palmer, Director of Housing & Homeless Services

SUBJECT: Bay Area Housing Finance Authority Older-Adult Rental Assistance Pilot

Program Award

RECOMMENDATION

Director of Housing & Homeless Services to provide a presentation on the Bay Area Housing Finance Authority (BAHFA) Older Adult Rental Assistance Pilot Program Grant award to Napa County in the amount of \$5,000,000 to prevent homelessness and improve long-term housing stability for extremely-low income senior residents experiencing severe housing burden through June 2028.

EXECUTIVE SUMMARY

On August 15, 2023, the Bay Area Housing Finance Authority (BAHFA) released a request for proposals (RFP) seeking an eligible entity to design and administer an Older Adult Rental Assistance Pilot Program (Program) in one or more counties of the 9-county Bay Area Region. Napa County Department of Housing & Homeless Services (DHHS) worked collaboratively with a consortium of community-based organizations and public sector partners to design a four-year Program and service delivery model using grant funds and other existing braided funding sources. Napa County has been selected from a pool of qualified, competitive applicants, to launch and administer the pilot program.

PROCEDURAL REQUIREMENTS:

No Action Required

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes

Board of Supervisors	Agenda Date: 12/5/2023	File ID #: 23-1900
Is it currently budgeted?	No	
Is it Mandatory or Discretionary?	Discretionary	
Discretionary Justification:	There is no mandate to receive this prese	entation.
Is the general fund affected?	No	
Future fiscal impact:	Future fiscal impacts will be budgeted in pilot program thought June 2028.	n each fiscal year of the
Consequences if not approved:	Presentation will not be provided.	
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 Bay Area Housing Finance Authority (BAHFA) was created pursuant to the San Francisco Bay Area Regional Housing Finance Act (Gov Cod 64500, et seq.) ("the Act") to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. Pursuant to Government Code 64520(j), BAHFA utilizes staff from the Metropolitan Transportation Commission.

The Act authorizes BAHFA to provide rental assistance for low-income residents of the Bay Area as part of its central mandate to protect vulnerable residents from displacement and homelessness in the Bay Area. On May 24, 2023, the MTC adopted Resolution 4578 granting \$5 million to BAHFA to establish a new Rental Assistance Program to prevent homelessness. BAHFA then adopted Resolution 0030 on June 28, 2023, to authorize the use of these funds to create an Older Adult Rental Assistance Pilot Program.

On August 15, 2023, BAHFA released a request for proposals (RFP), seeking an eligible entity to finalize program design and administer an Older Adult Rental Assistance Pilot Program (Program) in one or more counties of the 9-county Bay Area Region. The Program will provide monthly rental assistance to extremely low-income and severely rent-burdened, older adult and fixed income households for up to 48 months. Statewide Point-in-Time (PIT) count data shows Seniors are the fastest growing homeless population of any age group, with a 108% increase between 2017-2020 in California. Among extremely low-income older adults, the cause of homelessness is most often a financial or health crisis. This pilot project will focus on the senior population because most financial assistance programs are designed for 12-24 months, with a focus on workforce development to stabilize household income. In the case of seniors, returning to work is not a likely or reasonable resolution to acute financial crisis.

Housing & Homeless Services staff worked collaboratively with a consortium of community-based organization and public sector partners to design a four-year Program and service delivery model using grant Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1900

funds and other existing braided funding sources. On November 8, 2023, Napa County was selected among all proposals to receive the full \$5 million to launch and administer the Program. The Program is designed to assist extremely low income, severely rent-burdened seniors in Napa County who are at imminent risk of experiencing homelessness by improving their long-term housing stability through guaranteed rental assistance.

Napa County Older Adult Rental Assistance Pilot Program

Pilot Program Overview

Tuesday December 5, 2023

BAHFA Rental Assistance Pilot Program

Need for Prevention

36,800 = Bay Area 22/23 PIT **506** = Napa County 22/23 PIT

At-Risk is estimated to be 10-15x those counts

Among Older Adults, the triggering event is financial or health crisis.

Seniors are the **fastest growing** homeless population: 108%

Program Goals

Prevention for extremely low income senior residents

Learning focused on senior population & long term support.

Create a blueprint for Bay Area Counties for senior-focused homelessness prevention

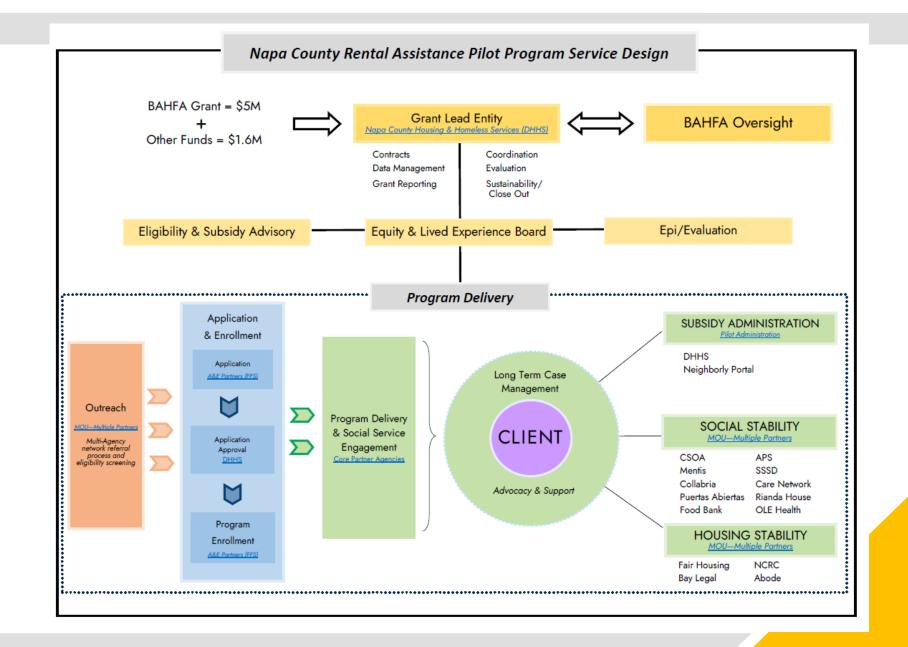
Program Elements

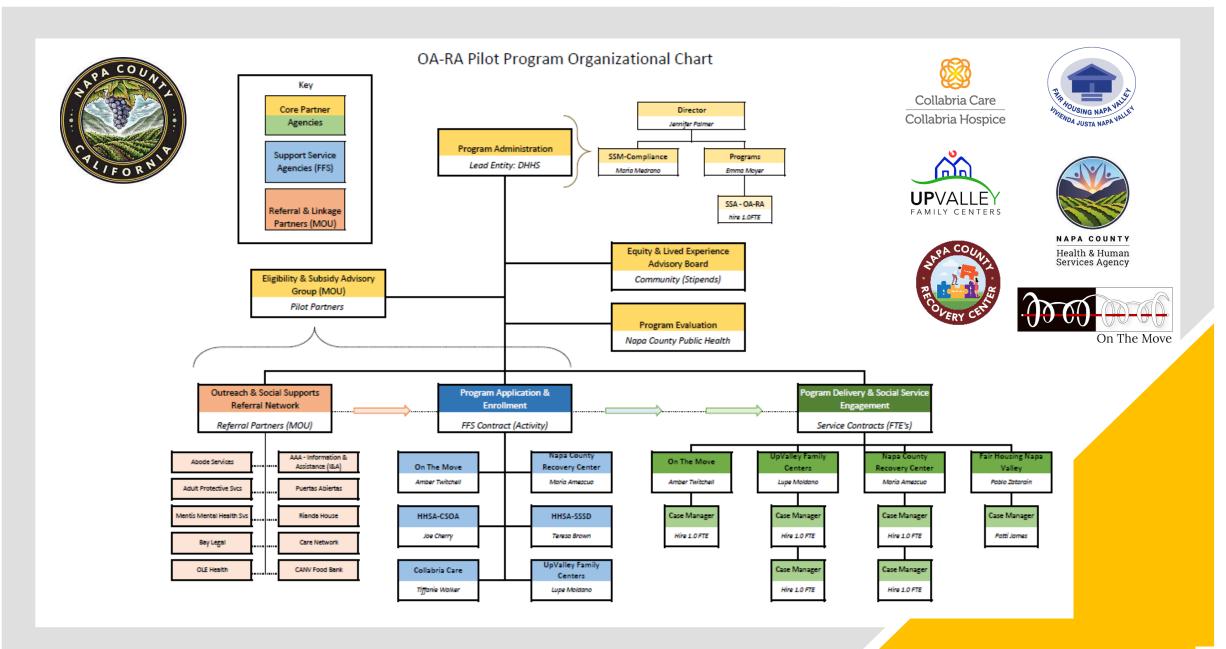
Equity-focused outreach and enrollment

Interventions: 48 months aid, support services

Efficiency: reduced administrative burden and barriers for participants.

Evaluation: Create metrics and report regularly.



















Why Napa?

- 1. Napa County has a significantly higher rate of older adults than the Statewide average.
- 2. Napa County has had the highest number of recent disasters in the State.
- 3. Philanthropic aid in Napa County is significantly lower per capita compared to other Bay Area Counties: \$812 pp in Napa compared to \$11,000 pp in San Francisco and \$4,000 pp in Alameda.
- 4. Innovation moves at the speed of trust.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1928

TO: Board of Supervisors

FROM: Brian D. Bordona, Director of Planning Building & Environmental Services

REPORT BY: Akenya Robinson-Webb, Code Compliance Supervisor

SUBJECT: Annual Code Compliance Division Update

RECOMMENDATION

Director of Planning, Building, and Environmental Services will provide an update on the Code Compliance program for FY 22/23.

EXECUTIVE SUMMARY

The County is committed to maintaining the quality of life in Napa County and the Code Compliance Division assists in that effort through obtaining compliance through enforcing multiple State and local laws and regulations. Through education and enforcement, the Code Compliance Division achieves the abatement of violations that may constitute threats to public health and safety or may cause significant environmental damage. In this way, the Division gives meaning to the permits and approvals issued by the other divisions of PBES.

Because the County is large and staffing is limited, the Code Compliance division operates primarily through responsive enforcement, where staff investigates complaints received by the public in confidence. However, the Division also operates through proactive enforcement of building violations, the Use Permit Compliance Program, transient occupancy enforcement, and the Neighborhood Property Improvement Program. These programs either involve violations discovered by staff or self-reported by property owners. While no program can identify all code violations, the Division's goal is to combine responsive enforcement with proactive enforcement to provide meaningful and effective reach across the County.

This update seeks to provide the Board with an overview of the Code Compliance program as well as highlight notable accomplishments during FY 22/23. Staff will also outline several goals for the future of the code compliance program, which staff intends to bring to the Board in 2024.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?

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 Code Compliance Division (Division) is charged with ensuring compliance with State and Local adopted codes relating to building and zoning requirements, health and safety concerns, property maintenance standards, and other land use laws and regulations. The Division's goal is compliance and values community engagement through education.

In 2017 the Board of Supervisors adopted the Code Compliance Policy and Procedure Manual set forth the Division's policy directives and outline procedures for staff to follow. Generally, the policies promote efforts for voluntary compliance. Once a violation is identified, staff issues a Notice of Apparent Violation which identifies the potential violations and corrective action and provides a deadline for voluntary compliance. Often, property owners simply need to apply for a permit to correct the violation and Staff will work with property owners to assist in that process until compliance is achieved. If the property owners are not making reasonable progress towards compliance, staff may exercise any of the three formal civil enforcement options described in the compliance manual which may include one or more of the following: administrative abatement, citations, or referral to County Counsel. In rare cases, violations may also be appropriately referred to the District Attorney for criminal enforcement, or to the Department of Fish and Wildlife, the Regional Waterboard, or other governing agencies.

Code Compliance cases are divided into seven categories based on the violations identified. The majority of cases are building permit enforcement, property nuisance, and zoning enforcement. Many involve multiple categories of violations, in which case, Code Compliance works with an interdisciplinary team involving the affected Divisions or Departments. The following is a breakdown of the seven case categories and the average percentage of case type per year:

- •Building Permit Enforcement Unpermitted construction, illegal conversions of structures 38%
- •Zoning Enforcement and Use Permit- Businesses and other members operating outside their allowed uses withing their zoning district 17%
- •Property Nuisance Substandard property maintenance such as excess debris and materials on the property, vehicles parked on unimproved surfaces longer than 3 days 25%
- •Grading Earth movement without prior approval 10%
- •Conservation Regulations Stream and wetland setbacks, tree removal, vineyard installation without an approved ECPA 6%
- •Substandard Buildings Dilapidated structures, housing unfit for human habitation 3%
- •Stormwater/Flood Plain Illicit discharge and structures located in the floodplain without approval 1%

When the County receives a complaint, a case is created in the tracking system and the case is assigned a priority. The priorities are defined as follows:

•Priority 1 - Safety related complaints such as building without a permit, unsafe structures, and environmental

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1928

hazards.

•Priority 2 - Non-Safety related complaints such as zoning violations and property nuisances.

Priority one cases are investigated as soon as possible to ensure that any immediate threat to health and safety is identified and corrected. Priority two cases are given priority as staff is available and able to attend to them.

County Counsel's Role in the Code Enforcement Process

County Counsel supports the Code Compliance team in several ways throughout the enforcement process. Deputies work closely with Code Compliance staff on individual cases as well as program-wide issues. Counsel advise staff on specific approaches to assist property owners in achieving compliance, mediate in cases where staff and property owners may reach impasse, and litigate on behalf of the County where voluntary compliance is not forthcoming. The Napa County Code provides that County Counsel may commence civil proceedings for the abatement, removal, correction and enjoinment of violations, as well as the imposition of civil penalties and abatement costs. The Policies and Procedures Manual provides that referral of cases to County Counsel is one among several options for formal enforcement after efforts to attain voluntary compliance are exhausted or futile.

In addition to case-specific services, County Counsel also provides assistance with process improvement and revisions, as well as advice and training on the legal boundaries of code compliance activities. For example, the process for obtaining an inspection warrant requires filing an application with the Court, accompanied by a declaration or affidavit from a code compliance officer. To ensure the process was efficient and effective, as well as in compliance with state law, County Counsel met with the presiding judges to develop a workflow for such applications, avoiding unnecessary obstacles for Code Compliance staff to perform their duties.

Like with other departments and divisions, County Counsel also supports staff in making more substantial changes to the Code Compliance program. County Counsel helped to prepare the Policy and Procedures Manual in 2017 and the Code Compliance Resolution in 2018.

Permit Enforcement FY 22/23

As mentioned above, a majority of the cases relate to building code or permit enforcement. In the past fiscal year, staff identified over \$13.26 million worth of illegal construction. Not only does that represent a significant amount of work being done out of compliance with the applicable Building Codes, but also represents substantial building permit fees that are not paid to the County. In the 2022/2023 fiscal year, the Division's activities generated \$599,762 in permit fees related to correcting those violations. Staff is proactive in building permit enforcement due to the health and safety concerns associated with construction codes.

Notable Achievements

In addition to the building permit fees, the Division has had many successes in the last fiscal year. Most of the Division's focus is on the backlog of cases, which has reached over 1,000. During 2022/2023, four Code

Compliance officers closed 199 cases, averaging about 50 case closures each. The backlog continues to grow, as 316 new cases were opened during the last year. Code staff was able to close long-term cases including one that consisted of an illegal construction of a dwelling and multiple structures built within the Special Flood Hazard Area without first obtaining a permit. Staff conducted two abatements including a large landslide and a debris and removal abatement.

Code Compliance staff also works on broader program improvement. In the last year, Staff sought feedback from other divisions, departments, and members of the public who are involved in the code compliance process. Code Compliance used the feedback to develop and implement process improvement procedures and documents such as the Building Correction Violation Checklist. Code Compliance staff also identified sections of the Policy and Procedures Manual that can be updated to better serve the needs of the community.

Future Program Goals

Neighborhood Property Improvement Program:

In 2015 the Code Compliance Division initiated the Neighborhood Property Improvement Program (NPIP) to reduce the number of properties with nuisance related issues. The Neighborhood Property Improvement Program takes a proactive approach by educating residents and working with them to obtain compliance with the County's property maintenance standards set forth in NCC Section 1.20.022 (Nuisance Abatement). During the program, code staff take to the street, often by foot, and attempt to meet with the residents to discuss compliance.

Staff's goal is to provide education and discuss the relevant codes. This is an excellent opportunity to have some face time with members of the community so they understand what Code Compliance is and how the program can improve their neighborhood. We often will include other County Departments in the program such as the Problem-Oriented Policing (POP) team in the Sheriff's office, the Fire Marshal, and the Public Works department. The neighborhoods are chosen based on observations from Code Compliance officers, data regarding the amount of nuisance violations in area, or at the request of the community.

Typical violations identified during inspections are vehicles parked on an unimproved surface, excess trash and debris, improper storage of construction materials, and other property maintenance violations.

Due to competing priorities and case load, staff has been unable to continue the program the past four years. The Code Division has received some interest from members of the public for the program to return. The program is effective in identifying property nuisance issues and connecting with the community to encourage voluntary compliance. Most people, once informed, will voluntarily comply and clean the property. However, the program does require a substantial amount of follow-up that adds to staff's case load. Our goal is to implement a bi-annual Neighborhood Property Improvement Program which will help to maintain healthy neighborhoods throughout the County.

Proposed Improvements to Code Compliance Program

1. Policy and Procedures Manual

The Policy and Procedures Manual represents efforts by staff and the Board to establish priorities and policy decisions and to outline the mechanisms for achieving the priorities set by the Board. However, the Manual

combines two levels of management of the Code Compliance division that generally should be handled separately. The Manual incorporates the Board's determinations on broad policies, goals, priorities, and objectives. This policy-making underpins the entire code compliance program and directs the actions of staff.

At the same time, the Manual identifies specific procedures for carrying out the objectives set by the Board. For example, the Manual provides for how cases should be labeled in the case management software, for the specific workflow after receiving an initial complaint, and how to document extensions to various deadlines. These are important procedures for the Code Compliance Division to establish but should be flexible to allow staff to adapt the program to its needs, within the framework of the policies and goals established by the Board.

However, because the Manual was adopted by the Board, such changes to address day-to-day issues would require Board action, which limits staff ability to implement process improvements. To address this issue, Counsel and Staff will return at a future meeting to discuss potential updates to the Manual to maintain the broad policy goals and priorities of the Board but would enable Code Compliance Staff more flexibility to adapt the program to meet those policy directives.

2. Updating Administrative Fines and Cost Recovery

State law and the Napa County Code provide that Code Enforcement Officers can impose administrative fines and penalties through the issuance of citations. The amounts of those fines are capped by state law, but are set by resolution of the Board. The fines are generally graduated, increasing with each occurrence of a violation.

In 2021, the California legislature passed a bill to increase certain fines or penalties that can be imposed for specific violations. Penalties were increased to ensure that they provided an appropriate incentive to comply with the law. Staff intends to bring a future agenda item to align the County's fines and penalties with State Law.

In addition to fines and penalties, Counsel and staff will also be examining the provisions for the recovery of the administrative costs of abatement. State law provides that a violator is liable for the costs of abatement of a nuisance, but recovery requires a local ordinance and procedures for recovery. This is especially true where compliance is achieved without litigation, as there is no specific mechanism for billing the property owner for costs incurred to achieve it. The goal of any Code Compliance program is to be cost-neutral, so that taxpayers are not left with the bill to correct violations. Staff intends to bring a future item to address cost recovery.

3. Revising Administrative Abatement Procedures

County Counsel and Code Compliance Staff are also working on a broader, long-term effort to focus the Code Compliance Program on administrative abatement, rather than resorting to litigation. Currently, the primary approach after voluntary compliance cannot be achieved is to file a nuisance action seeking an order of the Court to correct the violations. While this can be effective and could be necessary where an injunction is in order, it can also be slow and costly.

Counsel and Staff wish to improve the process and procedure for administrative abatement, where a hearing could be held before a hearing officer to determine the scope and extent of a violation and appropriate remedy for it. The hearing officer can order abatement of the nuisance and that order could be entered as an order of the Court if enforcement action is needed. The hearing officer could also order payment of abatement costs and

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penalties, which can be recovered through a special assessment process.

Current Napa County Code provisions require such hearings to be held before the Board of Supervisors. Staff intends to bring a future agenda item to make changes to the Napa County Code to facilitate administrative abatement and ensure the process is both efficient for staff, but protective of the due process rights for property owners. The goal will be to provide a prompt resolution where currently matters can take years to resolve through litigation.



Code Compliance Policies and Procedures Manual

Planning, Building and Environmental Services Department Napa County Code Compliance Division

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1.0 POLICY DESCRIPTION: OVERVIEW

Purpose:

The purpose of this document is to provide a general overview of the Code Compliance Division (Division) within the Napa County Department of Planning, Building & Environmental Services (PBES or Department) and the Policies and Procedures which apply to the Division's efforts to obtain correction of Code violations. This document may be supplemented from time to time with additional policies and procedures with Board of Supervisors approval.

Overall Philosophy:

This Code Compliance Policy Manual (CCPM) shall serve as a tool for Code Compliance Officers ("Compliance Officer") in performing their normal duties related to the goal of obtaining compliance. Additionally the CCPM provides guidance to general PBES staff regarding the processing of Code violation cases.

The Code Compliance Division shall use various techniques to assure compliance with State and local laws relating to building and zoning requirements, health and safety concerns, property maintenance standards, and other land use laws and regulations. Its goal is to obtain voluntary compliance from citizens. Each case may be unique and a "one size fits all" solution doesn't always work.

Several studies have shown that a good compliance program promotes increased land values, safer neighborhoods, and pride in ownership. Education of the public regarding applicable laws can be an effective tool in obtaining immediate compliance, and a long-range solution to ongoing nuisances. Efficient code compliance is best accomplished by direct communication with members of the community through a variety of methods. These include reaching out via social media (such as Facebook, Next Door, and Napa County Website), mass mailings, and face-to-face discussions with property owners through the Neighborhood Improvement Program.

Code Compliance staff shall maintain ethical standards and strive to be firm, fair, and friendly. The California Association of Code Enforcement Officers defines a Code Compliance Officer's goal as one that serves the community to safeguard lives and property and to respect the Constitutional rights of all of the members of the community. Code Compliance Officers strive to achieve a number of objectives. They work for the common goals of their profession and employer. They conduct themselves as a model for the community and are accountable and accept professional and personal responsibility. They make decisions free from prejudice, honor the spirit and letter of the law, and safeguard public confidence by conducting themselves in a manner that maintains public trust.

The County is committed to maintaining the quality of life in Napa County through obtaining compliance in enforcing regulations and codes. The Code Compliance Division shall uniformly and fairly enforce codes and regulations and shall assign high priority to the abatement of violations that may constitute potential threats to public health or safety or that may cause significant environmental damage.

The CCPM supplements the adopted Napa County Code and the County of Napa Policy Manual. Where there is a conflict, the Napa County Code (County Code) and the County of Napa Policy Manual shall take precedence.

1.1 Identifying and Prioritizing Code Cases

Purpose:

To provide overall guidelines for prioritizing code cases. The number of violations and the time it takes to achieve compliance requires staff to make efficient use of limited time and resources. The most efficient method is to obtain voluntary compliance from those property/business owners and residents who are found to be in violation of County Code or State law. Those cases where reasonable progress towards abatement of identified violations are not feasible shall be referred to County Counsel or the District Attorney for legal enforcement action(s). In all cases, the Department seeks to avoid code compliance actions that result in the permanent loss of dwelling units except in cases where a unit was constructed in violation of the applicable zoning ordinance in place at the time, or where a unit cannot be feasibly rehabilitated to meet health and safety requirements.

Policy and Procedures:

The Department prioritizes the identification and abatement of Code violations affecting the health and safety of Napa County residents, employees, and visitors. The Department also prioritizes the abatement of violations that cause or have the potential to cause environmental harm. Nuisances and other violations that do not have an immediate potential for harm to people and/or the environment will be a lower priority.

The Department relies on citizen complaints to help identify violations requiring the attention of Code Compliance Officers. The Department also identifies potential violations through regular reviews and inspections conducted pursuant to County Code and/or conditions of approval, as well as independent investigations of violations associated with short-term rental housing. In addition, staff may become aware of violations through the direct observation of activities being conducted without the benefit of permits (or outside the scope of approved permits).

1.2 Chain of Command

Purpose:

To provide clear expectations to Code Compliance Officers with respect to reporting relationships.

Policy and Procedures:

Every member of the Code Compliance Division shall follow the established chain of command. Currently, the chain of command structure begins with the Board of Supervisors, followed successively by the PBES Director, Assistant Director, Division Manager, Supervisor, and staff. When it becomes necessary to contact someone in management, employees will start with their immediate supervisor. If the supervisor is not available, then the Division Manager or Assistant Director will be contacted.

1.3 Training

Purpose:

To offer proper techniques for dealing with the public in an effort to reach compliance.

Policy and Procedures:

The Code Compliance Division is a customer-service oriented team, whose purpose is to fulfill the community's need for code compliance. A professional appearance and demeanor produces both respect and support from the community and co-workers. Part of being a professional Compliance Officer is the ability to handle any situation with understanding, care and concern. Napa County Code Compliance Officers are encouraged to continue to obtain training and education in an effort to improve the process of reaching compliance. Certification and training sessions are available through the California Association of Code Enforcement Officers.

1.4 Problem Oriented Policing Program

Purpose:

To achieve compliance, by utilizing non-traditional methods by working in collaboration with the County Sheriff's Problem Oriented Policing team (POP).

Policy and Procedures:

The Problem Oriented Policing Unit is a program managed by the Sheriff's Office. Code Compliance Officers will work with Sheriff's Deputies on properties that are affected by, or are the location for, criminal activities or blight. This is a proactive effort with both the Code Compliance Division and Sheriff's Office initiating cases.

2.0 CASE MANAGEMENT

Purpose:

To ensure quality service, standardize information and facilitate the preservation of accurate records for all compliance activities; and to continue operation of a system of code compliance that is both effective and fair.

Policy and Procedures:

Procedures will be established to provide for consistent collection and factual analysis of information relating to investigations. Detailed records will be maintained and organized for use by the Division, County Counsel, the District Attorney, and Courts. The following is a guideline to assist all staff in the complaint handling process. Changes may occur based on individual cases and circumstances, as reasonably determined by the Division Manager. The reason for any change or expedited process shall be documented and described in the file.

2.1. Performance Measures

Purpose:

To have a uniform timeframe in which Code Compliance complaints are investigated.

Policy and Procedures:

In order to measure efficiency, PBES has developed performance measures based upon the percentage of cases resolved (applications submitted/reviewed/permit issued), and how much time it takes a Compliance Officer to perform an Initial Response from the date the complaint is logged. For the Initial Response indicator, cases are prioritized in the following manner:

Priority 1 – Safety related Complaint (such as building without a permit, unsafe structure, and sub-standard conditions) with a goal of 5 Working Days for initial response. (NOTE: Various deadlines and times for completion of tasks as called for in this Manual are stated in terms of "Working Days." "Working Day" is a term defined by Napa County Code section 2.88.010, as follows: "'Working day' means a day when the office of the clerk of the board of supervisors is open for business. Weekends, county holidays as well as days when the office is closed for regular business due to a declared or posted emergency do not constitute working days." That definition shall be applied in this Manual.)

Priority 2 - Non-Safety related Complaint (Zoning, other) with a goal of 10 Working Days for initial response.

Currently, the Department will create reports from the PMC Automation case management system. These reports will be used to measure performance and to provide data that can be used to evaluate and improve the program.

2.2 Records Organization and Electronic File Naming

Purpose:

To have a standardized method for organizing the code compliance case files in the computer.

Policy and Procedures:

Currently many files are organized first by address, then by name, then by violation abbreviation. This method shall continue and all existing electronic files shall be converted to this method. A list of abbreviations shall be used. Paper files are currently created based upon a recognized method for all files in PBES. This method shall continue to be used until an electronic filing system is adopted for all documents. All files shall be saved to the Enforcement Folder on the County server within the PBES and Enforcement files with the following naming conventions:

Street address+owners last+identifier. If an address has not been assigned to the parcel the APN number shall be used. If the owner is not an individual the company name shall be used.

Examples:

- 1234 Any Street Jones NOV.
- 4567 Any Street Doe Inc. CIT

The following is a list of **identifiers** that may be used on the electronic files:

- 1. CIT Citation
- COR General Correspondence
- 3. IR Inspection Request
- 4. IS Information Sheet
- 5. NOV Notice of Violation
- 6. PHO Photo
- STR Short Term Rental
- 8. WIN Winery

2.3 Citizen and Staff Complaints

Purpose:

To provide guidance for how to respond to complaints received from citizens, other agencies or staff.

Policy and Procedures:

Complaints from the public are received via the website, by phone call to report a violation, or by a letter to staff. Complaints from staff typically originate from observed violations while out in the field.

There are two methods of achieving the Division's goal of voluntary compliance and enforcement of all applicable laws, codes, standards and regulations. The methods are (1) reactive, such as responding to complaints and issuing citations; and (2) proactive, such as notifying interested parties of problems on the property and investigating independently observed violations.

Complainant identity shall be considered confidential information not subject to disclosure. Code Compliance Officers shall not release the name of the source. If a Public Records Act request for code compliance materials is submitted, the officer shall immediately and directly report this to the Supervisor and to the County Counsel's Office.

Compliance Officers are responsible for enforcing the County Code throughout unincorporated Napa County, within incorporated cities with regards to Environmental Health requirements, and in certain areas where the County contracts with other entities to provide code compliance services.

Allegations of violations from anonymous persons (which include both those persons who fail to provide contact information to Code Compliance as well as those who provide contact information but ask to remain anonymous) may be investigated at the Division Manager's discretion. If the Manager authorizes an investigation to occur, and no violation can be independently determined by the Compliance Officer, the case may be closed.

In order for an apparent violation that was witnessed solely by a complainant to move forward to the enforcement stage, the complainant shall be agreeable to providing testimony (at an administrative hearing, court proceeding, and/or via a declaration signed under penalty of perjury) if necessary. This requirement is in addition to Code Compliance's request of additional information from the complainant party substantiating their allegations.

2.4 Initial Steps, Investigation, and Informal Efforts to Obtain Voluntary Compliance and Correction of Violations

Purpose:

To provide a consistent process for the Compliance Division related to obtaining voluntary compliance.

Policy and Procedures:

Upon receipt of a complaint or discovery of an actual violation, PBES staff shall submit an Intake Form Number 2 to the PBES Building Secretary ("Secretary") and the following actions shall occur:

- The Secretary or support staff shall enter the information into the case tracking software and create a code compliance file. This file shall be handed off to the Code Compliance Supervisor within one Working Day of the receipt of the complaint.
- 2. The PBES Code Compliance supervisor shall assign the file to a Compliance Officer within one Working Day of the date the supervisor receives the file from the Secretary.
- 3. The Compliance Officer shall initiate an investigation and conduct research to determine if a violation(s) exists. Research may include internet searches.
- 4. If during the investigation of a complaint it is unclear if a violation exists, Code Compliance Officers may make contact with the owner of the property and/or other person(s) to gather additional evidence. A phone conversation may clear the property owner/tenant of any wrongdoing, or may give clarity of the facts of a potential violation. If communication by phone proves not to be feasible, and an initial drive-by site inspection does not garner the needed facts, then contact shall be made by mail.
- 5. In all cases in which a violation exists, the Compliance Officer shall provide the owner(s) and/or any other person(s) responsible for violations with a cover letter along with an Informational Sheet (Form 1), which provides a summary and description of the apparent code violation and the County's remedies and courses of action that may be pursued. All forms are maintained in electronic form in the Enforcement folders.

6. If Voluntary Compliance is agreed upon, Code Compliance Officers shall confirm in writing with the property owner/person responsible as to the required compliance course of action. Officers should allow a reasonable amount of time and opportunity for correction of the violations before the formal enforcement steps outlined below in Section 5 are commenced. While the amount of time allowed for compliance may vary, depending on the circumstances, those circumstances should be well-documented in writing to justify the period of time allowed for compliance or cure.

2.5 Requests for Extension

Purpose:

To provide procedures for uniformly handling case files to provide consistent treatment of citizens related to extension requests.

Policy and Procedures:

Any request for an extension of time to bring the property into compliance shall be on the Request for Extension form (see Form 13). The property owner or responsible party shall complete and sign the form. If approved – which is at sole discretion of the assigned Compliance Officer – the assigned Compliance Officer shall initial the form.

The Compliance Officer shall subsequently mail a letter to the property owner/ responsible party confirming the extension and advising them of the new compliance date. The complainant shall be contacted and updated on the case status.

Extensions may be granted for a reasonable period of time depending on the circumstances, the stated reasons for the extension, and the nature of the violation. As with other specified deadlines, the circumstances and reasoning for the length of the extension will be well documented in the file. The extension will be granted for no more than 30 calendar days unless circumstances clearly warrant a longer extension. In no event should the deadline for compliance be extended for more than 90 calendar days. Authorization for any extension longer than 30 calendar days must be obtained from the Code Compliance Supervisor.

2.6 Scope of Inspection and Expectation of Privacy

Purpose:

To provide general guidelines for entry onto private property in the course of investigating reported or observed violations.

Napa County recognizes that entry onto private property for enforcement purposes is governed by State law, constitutional considerations, and other applicable law.

Policy and Procedures:

Property owners have a right to privacy and are entitled to be free of illegal searches. If a property owner has erected a 6-foot high or taller solid fence such as a chain link fence with slats, block fence, or wooden fence around the rear yard of the property, the property owner has a reasonable expectation of privacy. No Compliance Officer shall use any artificial means to improve their position in an attempt to look over a solid fence to view a violation, such as standing in the bed of a truck or climbing on top of an electrical box, flying an unoccupied aerial vehicle (e.g. drone) or the use of other methods. Compliance Officers shall not look through a knothole in a fence to view a violation. The test for reasonable expectation of privacy is, "Would the average person expect that the condition of the fence around the property would keep the yard private from people looking into the yard?" If the fence becomes dilapidated and wooden slats are missing from the fence, or several strips of chain link fence screening are missing, the property owner no longer has an expectation of privacy.

If the violation can be legally seen from a neighboring property, and that neighboring property owner has consented to the Compliance Officer's presence, then the owner/resident of the property has no expectation of privacy.

2.7 Consent

Purpose:

To obtain permission when accessing properties.

Policy and Procedures:

Consent for the initial inspection shall be documented in the case narrative, including circumstances surrounding consent, description and name of party giving consent and of consent (verbal, written, inspection requested by occupant, etc.). When responding to a property for apparent code compliance violations, a good rule of thumb is to think of a Compliance Officer as a delivery person. Anywhere a delivery person can go, a Compliance Officer can go. This also applies in the reverse; a delivery person would not walk around a residence and deliver a package at the back door. Therefore, in order for an officer to inspect the rear yard of a residence, there must be consent.

If a Compliance Officer responds to a residence where there is a fence with a locked gate, the Compliance Officer shall <u>NOT</u> jump or climb over that fence to get to the front door.

Consent may be given in writing or verbally. Adequate written consent is a note written by the officer stating, "I, [name of homeowner or other individual with legal

standing, as described below], hereby allow [name of Compliance Officer] to inspect the rear yard at [address of property being investigated]." The property owner or tenant may also write this note. It should be signed and dated by the individual named in the note. If the officer inspects based on verbal consent, it is important to note in the case file the name of the person granting consent and their relationship to the property.

Consent may only be granted by a person who has legal standing with regard to the property. "Legal standing" is limited to a person who is lawfully on the property and has been given access to the property by the owner or primary tenant. Examples are: property owner, tenant, or anyone permanently occupying the property with permission. If the inspection is an interior inspection, someone renting a room may only consent to inspection of the room they rent and any common areas. In the case of a rental unit, the tenant (not the property owner), must give consent except with regard to common use areas.

During the inspection, consent, including written consent, may be revoked at any time by the person granting consent. Reasons for revoking shall be documented in the file. If the officer is told to stop inspecting the property and leave the premises, the officer shall stop immediately and leave the property. In this case, the officer must seek an alternative method of inspecting the property such as an inspection warrant. Revocation of consent shall constitute a refusal to inspect for the purposes of an inspection warrant.

If the Compliance Officer is unable to make contact at the site or is unable to conduct a site visit due to time constraints, the Compliance Officer may send by certified and first class mail an "inspection request" (Form 3). The inspection request shall include the property owner's name, location of the apparent violations and a time frame to respond.

2.8 Iuveniles

When a Compliance Officer responds to a location and a juvenile (anyone under 18) answers the door, the officer shall ask to speak with an adult. If no adult is home, the officer shall not discuss anything with the juvenile regarding the code compliance case. The officer should provide a business card for the juvenile and, if applicable, advise the juvenile that the officer shall be posting a notice on the door. Do not assume someone is an adult if there is any possibility they are a minor -- ask their age. The Compliance Officer may ask for identification, if available.

At no time should an officer enter a residence or ask permission to go into the rear yard when no adult is present. A juvenile has no legal standing to allow consent.

2.9 Documentation

Purpose:

To ensure that documentation is clear, concise, and supports a representative case narrative that records the conditions found on a property and which shall be used to accurately refresh the Compliance Officer's memory when testifying in court.

Policy and Procedures:

Complete documentation of all physical evidence and Compliance Officer's observations are essential. The Compliance Officer shall record observations and discussions with witnesses in the case workflow in the department database. Descriptions of violation(s) must be thorough as to type, location, quantity and any other specific points of identification. For example, the description of an illegally constructed building would include the type and size of the building and the reason it is perceived as illegal. The narrative may be a required part of any future court appearances, including citations or warrants, as well as administrative hearings, and must be as complete as possible in order for the judge or administrative decision maker to have a clear picture of compliance activities.

2.10 Photographs

Purpose:

To ensure a uniform process for documenting photos of violations and properly archiving them on the County's document management system.

Policy and Procedures:

Whenever reasonably possible, the Compliance Officer should attempt to document, via photograph, violations discovered during the course of their investigation. Compliance Officers should take time to consider the best way to document the violations using photography by considering far and close views, before and after shots and thinking how to best capture the violation for someone who has not been on the site of the inspection so that they have an accurate understanding. Photos shall not be staged or altered to exaggerate the extent of any violation. All photographs shall be taken digitally.

The following procedures must be followed when managing photos after an inspection.

When the Compliance Officer returns from a site investigation, the officer shall download the photo files to the appropriate folder and file on the document management system. Photos shall be labeled using the naming convention as described in 2.2 and should also include the date the photos were taken. A minimal number of

photos should be printed for the hard copy file (i.e., just enough photos to represent the violation).

Compliance Officers shall not extend cameras over fences, walls, though windows or other areas that the owner/occupant would likely have a right to privacy.

Prior to taking any photos, the Compliance Officer must obtain verbal or written consent to the taking of photos from an individual with legal standing as described above. This consent must be obtained in addition to consent to conduct an inspection. If such consent for photographs is denied, the Compliance Officer shall not take photos of the violations. If at any point in the inspection the owner/occupant asks the Compliance Officer to stop taking photos, the Compliance Officer shall stop. If a Compliance Officer is denied permission to take photos, they shall consult the supervisor regarding the possibility of obtaining an inspection warrant.

2.11 Notification of All Interested Parties

Purpose:

To limit liability to the County and to build a solid case through proper notification to ensure every interested party in a property has the opportunity to correct a violation.

Policy and Procedures:

Whenever an action by the Code Compliance Division may have a financial impact on a property including but not limited to abatement action, notices advising of violations or pending actions shall be mailed certified and first class mail to <u>all</u> parties known to have a vested interest in the property. The County Tax Collector maintains a computerized system of property owners. This system shall be used to locate all persons who possess an interest in the property and their mailing addresses.

2.12 Complaint follow-up

Purpose:

To confirm with the complainant that the complaint was received and investigated.

Policy and Procedures:

Upon receipt of a complaint or after the initial investigation of the complaint, Code Compliance Officers will attempt to contact the complainant letting them know that they have received the complaint and are in the process of investigating. Code Compliance staff shall not share the details of the investigation with the complainant. Upon closure of the case Code Compliance Officers will attempt to contact the complainant letting them know that the case is closed.

3.0 ADDITIONAL ENFORCEMENT STEPS TO BE TAKEN IF INFORMAL EFFORTS TO OBTAIN COMPLIANCE ARE NOT EFFECTIVE

Purpose:

To provide options for the Compliance Officer if informal efforts to attain compliance are not successful.

Policy and Procedures:

3.1 Overview of Citations and Notices and Referral to Counsel

If the Compliance Officer is not able to attain voluntary correction after providing the property owner or other person(s) responsible for the violation a reasonable opportunity to cure the violation as contemplated by Part 2 above, then one or more of the following enforcement steps should be taken. The severity of the violation, the extent to which it poses a threat to public or private health and safety, and the applicable statutory or case law that applies to the particular violation will dictate the most appropriate steps.

3.2 Procedures Regarding Citations (Napa County Code Chapter 1.28)

Purpose:

To provide formal notification to property owners and occupants of property and/or those responsible for Code violations of the nature of the violations and the corrective action that is required; to provide a defined, reasonable period of time in which the corrective action must be completed; and to provide formal notice that an administrative penalty shall be imposed and the Citation shall be recorded (as to real property-related violations) if the required corrective action is not completed within the time allowed.

Policy and Procedures:

3.2.1 Issuance and Contents of Citations

A Citation pursuant to County Code Chapter 1.28 shall (unless circumstances dictate otherwise, which should be documented in each file) be issued and delivered (as provided in Chapter 1.28) to the owner of property where a violation exists, to the occupants or operators of businesses on properties where a violation exists, and to any and all persons responsible to any degree for a violation. The Citation shall contain the following information (Form 4):

- 1. The date(s) of the violation;
- 2. The street address, assessor's parcel number and/or, if necessary, a description of the location where the violation occurred;

- 3. The name and address of the responsible party(s), if known;
- 4. The section of the applicable code, statute or regulation violated and a description of the violation;
- 5. The action required to correct the violation;
- 6. The date by which the corrective action should be completed;
- 7. The amount of the administrative penalty for the Code violation and time period by which the violation must be corrected to avoid imposition of the penalty;
- 8. A description of the administrative penalty payment process, including the time and place for payment of the penalty;
- 9. An order prohibiting the continuation or repeated occurrence of the Code violation described in the Citation;
- 10. As to violations that relate to or affect real property, a statement that the Citation shall be recorded against the property if the violation(s) existing on the property are not corrected by the deadline established in the Citation;
- 11. A statement that the person served with the Citation may file a request for a hearing before a Hearing Officer pursuant to Chapter 1.28 of the County Code and that the County may hold the responsible person and/or the property owner responsible for all administrative costs, including County staff time and costs and reasonable attorney's fees, incurred in the hearing processes;
- 12. Either a copy of County Code Chapter 1.28 or a description of the administrative review process including the time frame within which a Citation may be contested and the hearing procedure;
- 13. The name and signature of the Compliance Officer issuing the Citation and the county department in which the Compliance Officer works; and
- 14. A request for hearing form (Form 5).

3.2.2 Delivery/Posting/Mailing of Citations

If the person responsible for the Code violation is present at the scene of the violation, the Compliance Officer shall attempt to obtain the person's signature on the Citation and shall provide the person with a copy of the Citation. The failure of any person to sign the Citation shall not affect the validity of the Citation or any compliance proceedings or measures.

If the person responsible for the Code violation is not present at the scene of the violation, the Compliance Officer shall send copies of the Citation by certified mail, return receipt requested, and by first class mail to (1) the property owner and, if different from the property owner, to the person(s) responsible for the violation, at the

property address, and (2) to the address listed for the property owner as shown on the last county equalized assessment roll, if that address is different from the property address. The Compliance Officer shall also post the Citation in a conspicuous place on or near the property, if reasonably possible, no later than one Working Day after the date of mailing.

3.2.3 The Right to Contest Citations

Compliance Officers will be familiar with the provisions of County Code Chapter 1.28 that relate to procedures applicable to when a Citation is contested and to the noticing requirements, hearing requirements, and the prescribed method for conducting the hearing before a hearing officer. This section highlights the steps that Compliance Officers shall be most directly involved in implementing.

- 1. Any recipient of a Citation may contest whether the Code was violated, whether the recipient is the person responsible for the violation, whether the Citation should be recorded as to the real property described by the Citation, and/or the amount of the administrative penalty by completing a "request for hearing" form (Form 5) and returning it to the Clerk of the Board within thirty calendar days from the date of the Citation together with an advance deposit of the full amount of the administrative penalties levied or, if applicable, a written request for an advance deposit hardship waiver (Form 6) pursuant to Section 1.28.100 of the County Code. (NOTE: if any deadline, which is established for any action or response in this Manual that is based on "calendar days," falls on a weekend or holiday, the person will be given until the next Working Day to comply.)
- 2. Hearings on contested Citations shall be noticed, scheduled and conducted before a hearing officer in accordance with Sections 1.28.110, 1.28.120, and 1.28.130 of the County Code. If a Compliance Officer submits an additional report concerning the Citation to the hearing officer for consideration at the hearing, a copy of the report shall be served by first class mail on the person requesting the hearing at least seven Working Days prior to the date of the hearing.

3.2.4 Consequences of Failure to Comply with Citation

The failure to pay the penalty imposed by a Citation and/or the failure to correct the Code violation as identified in the Citation may result in:

- The referral of the Code violation to County Counsel or to the District Attorney for commencement of civil proceedings pursuant to Section 1.20.155, Section 1.28.140 or other applicable Code section or statute; and/or
- 2. Enforcement of the obligation to pay administrative penalties and/or administrative costs as the personal obligation of the violator; and/or

3.2.5 Re-inspections Following Issuance of Citations

Following issuance of a Citation, an inspection may be necessary after expiration of the deadline for compliance as specified in the Citation to determine such compliance, or if the violation is ongoing or recurring. This shall be done by issuing an inspection request (Form 3) to schedule an inspection as soon as possible after the expiration of the stated deadline as possible.

3.2.6 Steps to be Taken Once Compliance Has Been Reached

When compliance is attained, the Compliance Officer shall take the following steps:

- 1. The Compliance Officer shall inform the complainant of the correction of the violation; and
- 2. The case shall be noted as resolved, with notes explaining the compliance, and entered into the records system as closed by the Compliance Officer.

3.2.7 Issuance of Additional Penalties if the Violation is Ongoing or Repeats

If it is determined that compliance has not been attained, or that a new, ongoing, or repeated violation of the same type has occurred, the Compliance Officer may issue a "Notice of Additional Administrative Penalties Due to Repeated Violations" (Notice of Additional Penalties") (Form 7). If extenuating circumstances or other reasons exist that call for withholding or delaying such Notice, those circumstances or reasons shall be documented in the file.

The following procedures apply to the issuance, delivery and content of the Notice of Additional Penalties:

- 1. The Notice of Additional Penalties shall include the following information:
 - a. The date(s) of the follow-up inspection, if any.
 - b. A description of the nature of the ongoing failure to comply.
 - c. A description of the nature of the violation and the date of the original Citation for the violation.
 - d. The street address, assessor's parcel number and/or, if necessary, a description of the location where the violation occurred.
 - e. The name and address of the violator(s), if known.
 - f. The action required to correct the violation.
 - g. The amount of the additional administrative penalty that shall be imposed for the repeated (second, third and each subsequent) Code violation and time period by which the violation must be corrected to avoid imposition of additional penalties. The amount of additional penalties shall be based on the

- applicable County Code section, Board resolution, or State or federal law or regulation that establishes the amount of civil penalties that may be imposed for second, third and subsequent violations. The time period should be reasonable and based on the applicable circumstances. Those circumstances and the reasoning used to set the new deadline for compliance should be well-documented in the file.
- h. A description of the administrative penalty payment process, including the time and place for payment of the penalty.
- i. An order prohibiting the continued or repeated occurrence of the Code violation described in the Citation and in the Notice of Additional Penalties.
- j. A copy of County Code Chapter 1.28 or a description of the administrative review process including the time frame within which a penalty may be contested and the hearing procedure.
- k. The Compliance Officer should print and sign their name in the Citation and include the County department in which the Compliance Officer works.
- A statement that the person served with the Notice of Additional Penalties
 may file a request for a hearing before a Hearing Officer pursuant to Chapter
 1.28 of the County Code to contest the additional penalty and that the County
 may hold the responsible person and/or the property owner liable for all
 administrative costs, including County staff time and costs and reasonable
 attorney's fees, incurred in the hearing processes;.
- m. A request for hearing form (Form 5).
- 2. The Compliance Officer shall send copies of each Notice of Additional Penalties by certified mail, return receipt requested, and by first class mail to (1) the property owner and, if different from the property owner, to the person(s) responsible for the violation, at the property address, and (2) to the address listed for the property owner as shown on the last County equalized assessment roll, if that address is different from the property address. In addition, the Compliance Officer shall post the Notice in a conspicuous place on the property no later than one Working Day after the date of mailing.
- 3. Upon the expiration of the compliance period specified in the Notice of Additional Penalties, the Compliance Officer should schedule another follow-up inspection (unless the violation is such that ongoing failure to comply may be determined through a review of the file). Depending on the findings made during that inspection, the Compliance Officer should repeat the steps outlined above for subsequent, ongoing or repeated violations, sending out, as necessary, any subsequent Notices of Additional Penalties in order to allow a reasonable time to cure or correct the violation but impose such graduated penalties as may

be allowed by law as applicable to third and subsequent violations. All subsequent inspections or follow-up actions shall be conducted, to the extent practicable, on or shortly thereafter the specified compliance date.

4.0 NOTICES OF NUISANCE AND NOTICES OF NUISANCE ABATEMENT (NAPA COUNTY CODE CHAPTER 1.20)

Purpose:

To provide guidance on abating nuisance violations.

The Code Compliance Division is also charged with obtaining compliance for any nuisances in the unincorporated areas of the county. Controlling nuisances keeps communities safe and livable. Creation of a sense of place and community pride is also important. The accumulation of junk vehicles, vehicle storage, overgrown vegetation, litter and other visual clutter are seen as a deterioration of the quality of life within the affected neighborhood. The existence of dilapidated buildings and overgrown vegetation is associated with areas of high crime and declining property values.

Napa County Code Chapter 1.20 (Substandard Property Maintenance as a Public Nuisance) has specified a number of activities and conditions as public nuisances. Any person owning, leasing, occupying or having charge or possession of any premises in the county are required to maintain such premises in such manner so as to avoid being injurious to public health, indecent or offensive to the senses, or an obstruction to the free use of property, or interfering with another person's reasonable use and enjoyment of their property.

Policy and Procedures:

The information provided for in Chapter 1.20 of the County Code is intended to provide the County with an additional means of obtaining compliance, either independently or in combination with other steps outlined herein, through the issuance of a Notice of Nuisance, the issuance of an Abatement Notice, and the use of several abatement options if the responsible party fails to voluntarily abate the nuisance. Chapter 1.20 limits authority to declare a violation to be a public nuisance to the following officials: the Director of PBES, the Director of Public Works, the Agricultural Commissioner, the Sheriff, the Board of Supervisors and any other persons designated by the Board. The decision to declare the existence of a public nuisance and to issue one or more notices under Chapter 1.20 shall usually be made in order to expand the available compliance options in certain cases where administrative abatement proceedings before the Board of Supervisors and summary abatement may be desirable.

4.1 Issuance and Contents of a Notice of Nuisance

If a nuisance as defined in Chapter 1.20 or other provisions of the County Code is found to exist, a Compliance Officer (for this purpose, only those specified by County Code Section 1.20.010) shall issue a Notice of Nuisance (Form 10) pursuant to County Code Section 1.20.040, unless reasons or circumstances exist that call for withholding or

delaying such Notice, which reasons or circumstances shall be documented in each file. If a Notice of Nuisance is issued, the Compliance Officer shall cause the Notice to be sent or delivered (as required by Chapter 1.28) to the owner of the property upon which the nuisance exists as shown on the last county equalized assessment roll, upon anyone known to the Compliance Officer to be in possession of the property, and upon all lienholders of record. The notice of nuisance shall contain the following:

- 1. The street address, assessor's parcel number, and other description sufficient to identify the property affected;
- A description of the condition constituting the nuisance. If the Compliance
 Officer determines that the condition causing the nuisance can be corrected or
 abated by repair or corrective action, the notice shall state the repairs or
 corrective actions that shall be required;
- An order to completely abate the nuisance within a reasonable period of time, not less than twenty-four hours, as the Compliance Officer may specify. The circumstances and reasoning justifying the period of time specified by the Compliance Officer should be well documented in the file;
- 4. A statement that if the nuisance is not abated as specified, the Board of Supervisors shall conduct a hearing to consider whether to order abatement of the nuisance by the owner or responsible party, or alternatively by the County, and to consider whether to levy an assessment pursuant to Sections 1.20.100 and 1.20.120 to recover the costs of such abatement. Costs of abatement shall include all incurred enforcement investigative and administrative expenses.

Neighborhood Improvement Program

Since 2015, Neighborhood Improvement Programs have been conducted in an effort to reduce the number of properties with nuisance issues. Neighborhoods are identified, introduction letters are sent to the all property owners in those neighborhoods and Compliance Officers conduct an inspection of the neighborhoods. Each residence with visible nuisance problems will be approached by Officers. If no one answers, a door hanger will be placed on the door with information specific to the nuisance and contact information for the officer. Officers will return to the neighborhood within 30 calendar days to determine if any improvement has occurred. Property owners who do not comply with the request to mitigate the nuisance will be issued a Notice of Nuisance, as detailed in the Procedures.

4.2 Manner of Giving Notice

Purpose:

To ensure proper and consistent communications with property owners.

Policy and Procedures:

Notice of Nuisance and Notice of Abatement, covered by Chapter 1.20, shall be given by certified or registered mail, postage prepaid, and by conspicuously posting on the property within one Working Day after the date of mailing. Notice shall be deemed effective when the posting has occurred and the notice has been deposited in the mail.

4.3 Issuance and Contents of Notice of Nuisance Abatement

Purpose:

To ensure noticing procedures are followed.

Policy and Procedures:

The Department shall ensure that all Compliance Officers are familiar with the provision of Chapter 1.20 that relates to procedures applicable to the noticing and hearing of administrative abatement proceedings before the Board of Supervisors. This guide highlights the steps that Compliance Officers will take to provide proper notice.

- 1. Service of Notice. If, upon expiration of the period specified in the Notice of Nuisance, the person(s) responsible has not abated the nuisance or, if abatement steps have been commenced but abatement has not been achieved with due diligence, the Compliance Officer shall prepare a Notice of Nuisance Abatement and Hearing on Abatement (Form 11) and serve copies thereof upon the owner of the property upon which the nuisance exists as shown on the last county equalized assessment roll, upon anyone known to be in possession of the property, and upon all lienholders of record.
- 2. Contents of Notice. The Notice of Nuisance Abatement shall contain the following:
 - a. The heading, "Notice of Nuisance Abatement and Hearing";
 - b. A notice to appear before the Board of Supervisors at a stated time and place not less than fifteen Working Days after service of the notice, to show cause why the stated conditions should not be found to be a nuisance, and why the nuisance should not be abated by the Compliance Officer; and

- c. The information describing the property and the nuisance to be abated, pursuant to County Code subsection (B) (1) and (2) of Section 1.20.040.
- 3. Discretionary Notice to Other Persons. If the Compliance Officer determines it to be appropriate, the Compliance Officer shall in their sole discretion also give notice of the hearing by regular mail to persons near the vicinity of the nuisance.
- 4.4 Notice of Violation and Order to Repair or Abate Substandard Conditions Under California Health & Safety Code Sections 17920-17928, 17980 and 17980.6

Purpose:

To enforce California Health and Safety Code Sections 17980 and 17980.6 and to ensure that the building standards of the California Building Code are maintained. The Division works to eliminate substandard housing conditions and/or prevent or remedy immediate threats to the health and safety of the public or occupants of a structure. California Health & Safety Code Section 17920, describes a substandard building as any building or portion of a building which has conditions that endanger the life, limb, health, property, safety or welfare of the public or the occupants.

Policy and Procedures:

The Notice of Violation (Form 12) should be used in all cases that are governed by Health & Safety Code Sections 17920.3 et seq. to correct substandard housing conditions and/or prevent or remedy immediate threats to the health and safety of the public or occupants of a building or structure.

Issuance of a Notice of Violation and Order Re: Substandard Housing Conditions should contain the following:

- 1. The street address, assessor's parcel number, and other description sufficient to identify the property affected;
- 2. A description of the specific substandard condition as defined in Section 17920.3 of the California Health and Safety Code and any County Code violation(s). If the Compliance Officer determines that the condition causing the violation(s) can be corrected or abated by repair or corrective action, the notice shall state the repairs or corrective actions that shall be required;
- 3. An order to remedy the violation(s) within a reasonable period of time. Again, as with other compliance periods or deadlines, Compliance Officers should document the circumstances and reasoning supporting the deadline specified. Generally, the maximum time allowed to correct the violation is thirty calendar

- days or as otherwise noted in the applicable code sections. More time may be allotted by the Compliance Officer, depending on the violation;
- 4. A statement that the notice shall be recorded against the property if the violation(s) existing on the property are not corrected by the deadline established in the notice;
- 5. A statement advising tenants that they may be entitled to relocation benefits per Health & Safety Code Section 17975;
- 6. A statement advising owners that they may not be entitled to tax deductions per Revenue & Taxation Code Sections 17274 and 24436.5;
- 7. A statement advising tenants that the lessor cannot retaliate against a lessee pursuant to Civil Code Section 1942.5;
- 8. A statement advising owners of their right to appeal as follows:
 - "The decision of the Building Official in this matter may be appealed to the Unified Board of Appeals in accordance with the provisions of Chapter 15.04 of the County Code. Failure to timely file such an appeal shall constitute an irrevocable waiver of the right to an administrative hearing and final adjudication of the Building Official's order"; and
- 9. If applicable, a statement that the failure to rectify the substandard conditions on the property may result in initiation of proceedings to appoint a receiver in order to prevent, restrain, correct, or abate the violation (including demolition), with costs of abatement, and attorneys' fees payable by the owner and additional penalties as ordered by the court.

5.0 WARRANTS

5.1 Inspection Warrants

Purpose:

To gain access to a property to inspect for violations if the Compliance Officer has reasonable suspicion to believe a violation exists and if the property owner or tenant either (1) refuses access; or (2) fails to respond to the County's request for access.

Policy and Procedures:

An inspection warrant may be obtained from the courts when the property owner or tenant does not provide the County with access to the property for verification of violations. A refusal by a property owner to grant entry is required prior to seeking an inspection warrant.

Prior to obtaining a warrant, the Officer may use a variety of options to reach a property owner and request an inspection. If the code complaint is a health and safety issue, the officer should attempt to reach the owner/tenant in person at the property, and obtain consent as described in Section 2.7. If the complaint is not an immediate concern, The Officer shall send an inspection request letter (Form 3) by regular and certified mail. If there is no response to the letter, the Officer may search for a telephone number to contact the owner and/or tenant. If all of the above actions are exhausted the officer may proceed to obtain a warrant.

5.2 Process to Obtain a Warrant

Purpose:

To ensure proper processes are followed when obtaining a warrant.

Policy and Procedures:

The following steps shall be taken:

- 1. Code Compliance Officers shall work with County Counsel to apply to the Court for an inspection warrant pursuant to California Code of Civil Procedure Section 1822.50 et seq.
- 2. All inspection warrant declarations shall be typed and approved by the Code Compliance Supervisor prior to seeking a judge's approval. The declaration shall describe the premises, place, buildings, structures or vehicles to be inspected. Additionally, it should contain a statement describing the reason for

- the warrant request, the owner or tenant refusal or failure to consent to access, etc.
- 3. Notice of the inspection warrant must be posted on the property 24 hours before the inspection unless the Warrant Order provides otherwise.
- 4. The inspection warrant must be served between the hours of 8:00 a.m. and 6:00 p.m. and only with the occupant present unless the Warrant Order provides otherwise. Only the premises, places, buildings, structures and vehicles described in the Warrant Order may be inspected. Force may not be used to break through a gate or door unless authorized in the Warrant Order. The Sheriff's Office may be utilized to accompany the Compliance Officer when serving an inspection warrant. The inspection warrant will expire fourteen calendar days from issuance, unless extended by the Court.
- 5. Once the inspection warrant has been served, the Compliance Officer shall request County Counsel to prepare a Return of Warrant which must be signed by a judge and filed with the court.
- 6. The complainant shall be notified of the results of each investigation and the status of the case. Notification may be by telephone or by mail. All telephone updates must be documented in the narrative of the file.

6.0 REFERRALS TO COUNTY COUNSEL OR THE DISTRICT ATTORNEY

6.1 Referral to County Counsel

Purpose:

To describe procedures for referral to County Counsel when escalation is needed for more difficult or egregious compliance cases.

Policy and Procedures:

Code Compliance Officers may refer the following cases to County Counsel:

- Nuisance Abatement;
- Receiverships;
- County Code violations;
- Building Violations;
- Health & Safety Code Section 17920, et seq;
- Chronic repeat violators;
- Properties that have significant health and safety code violations.

All cases referred to County Counsel shall use the County Counsel Referral form (Form 14). A complete copy of the case file shall be placed in the electronic management system and the Compliance Manager shall be notified. Referral shall include the following:

- Completed Referral Form;
- Property owner information or responsible party. Include their contact information;
- List each business or corporation separately and include all information from county resources, such as tax assessor records, property ownership information, dba information, fictitious business license information, etc.;
- Responsible Party Information to include individual and business;
- Chronological list of actions. Description of the investigation and regulations in detail;
- Maps, photos, charts;

- Previous warnings, abatement orders, Citation, NOVs with proof of service, certified return receipt, declaration of service, notes regarding verbal confirmation; and
- Copies of local ordinances, regulations or specific orders.

6.2 Referral to District Attorney

Purpose:

To describe procedures for referral to the District Attorney when escalation is needed for more difficult or egregious compliance cases.

Policy and Procedures:

Pursuant to County Code Section 1.20.155, the Compliance Manager shall consult with the Director of PBES and may refer the following cases to District Attorney:

- Unfair Business Practice matters (17200 Actions);
- Chronic repeat violators;
- Violators with a history of District Attorney enforcement;
- Properties that have significant health and safety Code violations;
- State Department of Fish and Wildlife related violations;

All cases referred to the District Attorney shall use the District Attorney Referral form (Form 15). A complete copy of the case file shall be placed in the electronic management system and the Compliance Manager shall be notified. Referral shall include the following:

- Completed Referral Form;
- Property owner information or responsible party. Include their contact information;
- List each business or corporation separately and include all information from county resources, such as tax assessor records, property ownership information, dba information, fictitious business license information;
- Responsible Party Information to include individual and business;
- Chronological list of actions. Description of the investigation and regulations in detail;
- Definition of all scientific and technical terms and abbreviations.
- Maps, photos, charts;

- Previous warnings, abatement orders, Citation, NOVs with proof of service, certified return receipt, declaration of service, notes regarding verbal confirmation; and,
- Copies of local ordinances, regulations or specific orders.

7.0 LITIGATION

7.1 Initiation of Litigation and Authority

Purpose:

To provide a guideline of the process by which the Officer shall seek the Board of Supervisors' direction and authority to initiate litigation.

Policy and Procedures:

County Code Sections 1.20.155(A) and 1.28.140 provide the authority for the Director of PBES to request that County Counsel or the District Attorney commence civil proceedings for the abatement, removal, correction and enjoinment of a violation of County Code. Code violations are viewed in two categories as outlined below:

- <u>Level 1 Violations:</u> These violations include, but are not limited to, Health and Safety Code violations, public nuisance violations associated with life safety issues, or egregious zoning violations (i.e. significant use permit violation or conservation violations).
- <u>Level 2 Violations</u>: These violations include, but are not limited to, Building Code and/or Residential Code violations (County Code Title 15) with no life safety issues, general property nuisance violations, and minor zoning violations.

Prior to the filing of litigation, County Counsel shall provide to the Board a confidential memorandum, which shall include the following information:

- Property address and owner name;
- A description of the County Code violation or violation of other state or federal laws or regulations;
- Any efforts to obtain compliance;
- A statement of when litigation will be initiated unless one or more Board members request that a closed session be held to discuss the matter; and,
- A description of any exigent circumstances that call for initiation of litigation prior to the first feasible date for holding a closed session.

County Counsel shall advise and determine whether circumstances warrant a closed session to discuss initiation of litigation with the Board in addition to or in lieu of the confidential memorandum to the Board.

7.2 Settlement Authority

Purpose:

To identify procedures for negotiating settlement agreements with the responsible party and to provide general guidelines for cost recovery and civil penalties.

Policy and Procedures:

- 1. General Rules for Settlement. Pursuant to County Code Section 1.20.020(C), County Counsel is authorized to take, initiate, conduct and conclude any actions at law or equity deemed necessary to abate any public nuisance. Code Compliance Officers should work with County Counsel to make every effort to settle lawsuits through a stipulated judgment subject to first consulting with or advising the Board of Supervisors pursuant to the process described below with the primary goal being to gain compliance with the applicable code(s). Additionally, Code Compliance Officers, with the assistance of County Counsel or the District Attorney, may consider entering into a Settlement Agreement prior to filing the civil action. All settlements shall include a path to compliance with a specific timeline for compliance.
- 2. Staff Cost Recovery. Code Compliance Officers shall present total staff costs for compliance efforts to County Counsel to include in the proposed stipulated judgment or settlement agreement. Generally, these costs will be non-negotiable.
- 3. Negotiated Settlements. When negotiating settlements, including the amount of civil penalties to be accepted in the settlement, if any, Code Compliance Officers must consider the following factors:
 - The egregiousness of the violation and number of violations on the property;
 - Prior history of violations and/or litigation;
 - The willingness of the violator to comply;
 - The classification of the violation (i.e. Level 1 or Level 2); and
 - The financial condition of the property owner

County Counsel, the Director of PBES and the Compliance Manager shall work together to negotiate settlements, including where applicable, an amount of civil penalties to be paid by the responsible party. Unless the Board has issued a standing delegation of authority to the Director of PBES or Code Compliance Officers to settle litigation at certain levels or in certain defined cases, PBES must seek direction and authority from the Board of Supervisors regarding settlement of litigation before any offer is made. PBES shall work with County Counsel to provide a confidential memorandum to the Board to describe the settlement terms recommended by staff and to give Board members the opportunity to request a closed session prior to making a settlement offer.

County Counsel shall determine whether in specific instances it is advisable to schedule a closed session to discuss settlement of litigation (or pre-litigation settlement) with the Board in addition to or in lieu of the confidential memorandum to the Board.

The confidential memorandum to the Board of Supervisors shall include the following information:

- Property address and owner name;
- County Code violation;
- Efforts to obtain compliance;
- A statement of when the settlement hearing will be held unless one or more Board members request that a closed session be held to discuss the matter; and
- A description of the proposed settlement, including a description of the total amount of civil penalties, if any, and staff costs that could be sought for recovery and a description of the formulas applied in negotiation and any other factors in arriving at the proposed settlement.

7.3 Pending litigation

Purpose:

To provide guidance in engaging with the public and property owners regarding pending litigation initiated by the County.

Policy and Procedures:

Once litigation is pending or a matter has been referred to the District Attorney or County Counsel for litigation, Code Compliance Officers and other PBES staff shall follow the guidelines provided in the Litigation Hold Memorandum. In general, these guidelines include:

Discussion about cases

- 1. Internal communications PBES Staff must consider the following when discussing violations:
 - a. Always assume paper and electronic writings, including but not limited to emails, are subject to disclosure. Always assume personal/ad hominem comments will be disclosed in a deposition or other testimony.
 - b. Attorney/client privilege generally includes writings to or from County Counsel; it does <u>not</u> include writings to or from the District Attorney.
 - c. Public record requests require timely response. Immediately contact County Counsel when a request from the public is submitted for Code Compliance records for copying OR inspection.
 - d. Records in criminal cases must be disclosed to the defendant, even without a Public Records Request or written discovery demand.
- 2. Front counter interactions

When a member of the public inquiries about a particular property at the front counter, PBES staff shall routinely check in the electronic management system, PMC, to see if a violation exists on the property. PMC will indicate if the property has a general Code violation, and identify if the case has been referred to County Counsel or the District Attorney.

- 3. Discussions with the violator, their expert, and/or attorney:
 - Discussions are not permitted during an investigation or during pending litigation unless previously approved by County Counsel or the District Attorney.
 - b. When a matter has been referred to County Counsel, consult with County Counsel prior to making any statements related to the litigation.
 - c. General policy prohibits commenting on an investigation when a matter has been referred to the District Attorney. Consult with the District Attorney or County Counsel prior to making any statements related to the litigation.
 - d. Direct the media to the PBES Director or County Counsel.
 - e. Discussions are not permitted during an investigation or during pending litigation, unless previously approved by County Counsel or the District Attorney.
 - f. When a matter has been referred to County Counsel, consult with County Counsel prior to making any statements related to the litigation.
 - g. When a matter has been referred to the District Attorney, general policy prohibits comments regarding an investigation. Consult with the District Attorney or County Counsel prior to making any statements related to the litigation.

8.0 BUILDING PERMITS

Purpose:

To provide a standard protocol for the intake of applications for building permits and for the review, issuance, and inspection process for permits that have been issued to correct a Code violation.

Policy and Procedures:

Consistent with Chapter 1 of the California Building Code and the Residential Building Code, if a person commences construction work without first obtaining a building permit, or when current construction work is inconsistent with the underlying building permit or zoning, the Compliance Officer shall issue a Stop Work Notice (Form 16), ordering the construction work to cease immediately, unless reasons or circumstances exist that call for withholding or delaying such Notice, which reasons or circumstances shall be documented in each file. If the Stop Work Notice is issued, the Compliance Officer shall then follow the procedures set forth in section 5 of this policy manual.

Permit Application Intake

All permits submitted to correct a violation must be reviewed by a Compliance Officer to ensure that the scope of the permit addresses the violation. In most circumstances, the violator or their representative must make an appointment with a Compliance Officer prior to submitting a complete application. If the front counter staff determines that the permit is related to a Code violation, they shall ask the applicant if they have an appointment with a Compliance Officer for the intake of the application. If not, staff shall attempt to contact a Compliance Officer to arrange for review of the permit application. If a Compliance Officer is not presently available, staff shall provide the applicant with a Compliance Officer's business card and direct the applicant to arrange an appointment with the Compliance Officer before submission of the application.

After the Compliance Officer has determined that the application addresses the violations that exist on the property, the Officer shall deliver the application to a permit technician to complete the normal building permit intake process.

Application Review

Once the permit application is submitted, the applicant has 60 calendar days to complete the review process or the permit application shall expire. The Building Official and/or the Code Compliance Supervisor can extend the application review beyond 60 calendar days if the applicant is working diligently toward the issuance of the permit or when the project's delay is reasonably justifiable.

Issuance

Upon issuance of a building permit to correct a Code violation, the applicant, owner or owner's representative shall sign the "Violation Correction Permit Process form" (Form 17) and schedule an initial compliance inspection. Upon issuance of the permit and the copy of the Concealed Construction Verification Guidelines (Form 18) the applicant has 60 calendar days to complete the permit and receive the final inspections. If no inspections have occurred and the permit has not received final approval, the permit shall expire and the applicant may need to re-apply. However, extensions of time can be given by the Building Official if the remaining action is to complete the final inspections for the permit.

Inspection process

Inspectors shall follow the Concealed Construction Verification Guidelines.

9.0 USE PERMITS AND GENERAL GUIDELINES FOR PBES STAFF WHO PROCESS PERMITS TO CORRECT VIOLATIONS

Purpose:

To ensure permits are processed in a timely manner in order to correct violations and reach compliance.

Policy and Procedures:

When a permit application (building, grading, environmental health, conservation, and planning permits) is submitted to correct a Code violation and assigned to a PBES staff member, they shall implement the following processes in addition to their regular permit steps:

- 1. Create thirty calendar day timelines when information is requested to ensure the application continues to move forward towards compliance. PBES Staff shall strive to process the permit in a timely manner. They shall maintain records and if the violation is associated with an active litigation case, PBES staff shall meet those litigation deadlines as identified in the court order(s) and/or stipulated judgement.
- 2. The Napa County Local Procedures for Implementing CEQA, Section 401(b)(2) indicates that failure to provide the required information to the PBES staff member within one-hundred twenty calendar days of the issuance of a Completeness Determination or thirty calendar days of issuance of a Request for Deposit Submission shall cause the application to be deemed "abandoned". If timelines are not met PBES staff will contact the Code Compliance Officer assigned to the case to determine if further code enforcement action is necessary.
- 3. PBES staff shall include all Notices of Violation and other Code related public information with their staff reports when presenting to decision makers.
- 4. PBES staff shall periodically confer with the Code Compliance officer assigned to the case regarding progress of the application.

10.0 RECEIPTS AND PAYMENTS

Purpose:

To ensure all money owed is paid in a timely manner and payments are properly documented.

Policy and Procedures:

All payments must be submitted to PBES as agreed in the citation or settlement of the case. Payments are received by the administrative staff and processed by the Staff Services Analyst. A receipt shall be generated upon payment and provided to the payee. Typical types of payments may include:

- Abatement cost recovery
- Staff cost recovery
- Settlement payments as a result of stipulated judgements or litigation
- Civil Penalties

11.0 PERSONNEL

11.1 Officer Safety - Basic Officer Safety Rule

Purpose:

To maintain safety for all Compliance Officers. Whether in the field or in the office, all Compliance Officers shall use the BASE Rule:

Be

Alert

Scan for Warning Signs

Evacuate

Policy and Procedures:

- 1. Code Compliance Officers should ACT WITH PURPOSE. It establishes confidence, commands presence and can act as a deterrent to an attack.
- 2. Code Compliance Officers should eliminate distractions. Officers should not do anything that will preoccupy them from safely making observations and interacting with the public.
- 3. During field interviews, Code Compliance Officers shall ensure that they:
 - a. Are in a position of advantage or have an escape route readily available.
 - b. Are alert for warning signs of aggression from both people and animals on the property.
 - (i) When making contact with an individual, attempt to determine if there are other people or animals on the property. Ask for any hazards on the property such as failed septic systems, hazardous electrical, etc.
 - (ii) Be alert for weapons. If an Officer observes what they think is a weapon, the preferred option shall be to end the conversation and leave the area safely and immediately.
- 4. Code Compliance Officers shall exhibit care when dealing with animals
 - a. All animals encountered in the field shall be treated with caution. Watch for aggressive or threatening behavior and respond accordingly.
 - b. Have a responsible party secure any animals which may be hostile to a Code Compliance Officer during the inspection.
 - c. Consider asking County Animal Control to assist and secure hostile animals during the inspection.

5. Inspecting Vacant Buildings/Structures

- a. Code Compliance Officers shall NOT enter a non-residential building/structure that appears to be currently occupied. If a building or structure has indications of being occupied the Code Compliance Officer shall attempt to contact a responsible party to determine occupancy and safely make contact with any individual that may be inside the building/structure.
- b. In addition to safety concerns, a sign of current occupancy will usually trigger the need to obtain consent or a warrant to continue the inspection.
- c. Code Compliance Officers should knock loudly and announce their presence when conducting inspections. Wait for a response and continue to look for signs of current occupancy.
- d. If the Code Compliance Officers is unable to contact a responsible party, law enforcement may be contacted to ensure that the inspection of the building/structure can be made safely.

6. Approaching Vehicles

- a. Code Compliance Officers shall NOT approach and attempt to contact unknown subjects in vehicles. From a position of advantage and with a readily accessible escape route, the Code Compliance Officer can request subjects to exit the vehicle and direct them away from it to make contact.
- b. If it is not safe to make contact with subjects in a vehicle, the Code Compliance Officer shall immediately withdraw. Observations and the appropriate referrals shall be provided to the Compliance Supervisor and/or law enforcement as the circumstances dictate.

7. Issuing Criminal Citations and Detentions/Arrests

- a. Issuing a criminal citation is commonly referred to as a form of a detention and arrest (or cite release). Trained Compliance Officers are authorized to issue criminal citations.
- b. Code Compliance Officers may order someone to remain at a location in order to issue them a citation; that is a level of detention/arrest considered reasonable. It is authorized as long as it does not create an unsafe situation for issuance of the citation.
- c. Code Compliance Officer shall NOT physically attempt a detention or an arrest. If a subject is not compliant with verbal commands, Code Compliance Officers should let them leave the scene (making note of description, vehicle, etc.) or call for law enforcement before continuing contact.

11.2 Expectations

- 1. When in the field, staff is Code Compliance Officers are expected to know their approximate location to be able to report it in the case of an emergency.
- 2. Code Compliance Officers are expected to strive to maintain a "professional face" when interacting with upset or angry individuals so that they can remain detached enough to safely observe the actions of the individual and assess any possible threats or hazardous situations.
- 3. Code Compliance Officers are expected to make note of suspicious activity or hazards for reporting to the appropriate agency.
- 4. Code Compliance Officers are never expected to knowingly put themselves into dangerous or harmful situations.
 - a. When a Code Compliance Officer may face potentially dangerous or harmful situations, staff shall consult with a supervisor to address the hazards. Such measures to address the hazards could include taking a second officer or making contact with law enforcement, or performing the inspection only after law enforcement has mitigated the hazard.
 - b. If a Code Compliance Officer observes a hazard which constitutes an immediate threat to life or property, the Code Compliance Officer shall immediately take steps to ensure their safety and make the necessary notification to 911 and/or other first responders. Immediately after this notification, the Code Compliance Officer shall contact their supervisor or designee when it is safe to do so.
- 5. The most important thing to do if the area does not appear to be safe is to ACT by leaving the area. The best response for a Code Compliance Officer when confronted with a direct threat is to safely and immediately leave.

11.3 Threats, Assaults and Batteries

All threats, assaults and batteries directed at Code Compliance Officers are serious and shall be reported to supervision, management, and/or law enforcement, immediately (as soon as it is safe). Code Compliance Officers should obtain as much information as safely possible about the subject making the threat, assault or battery, including their intent, ability and desire to carry out their actions, and include this information in the report to law enforcement and the Code Compliance supervisor.

11.4 Avoiding Conflict

1. The use of body language, choice of words, and tone should all be employed to de-escalate a potentially hostile situation. Use these techniques if it is safe to do so to try and complete an assignment. Conflict resolution training is available and recommended for all Code Compliance Officers.

2. If de-escalation is not effective, Code Compliance Officers should end the communication and leave the area. This applies to both hostile subjects and hostile animals.

11.5 Use of Force

- 1. In a case of immediate and direct threat to life, Code Compliance Officers may use the minimum reasonable amount of force necessary to mitigate the threat and allow for evacuation or escape from the area. The preferred method is to leave the area. If a Code Compliance Officer needs to use force for self-defense (i.e., either physically or by visually displaying pepper spray or other equipment), then such action shall be reported immediately (as soon as it is safe) to law enforcement and the Code Compliance supervisor.
- 2. Code Compliance Officers shall NOT use force (either physically or by visually displaying equipment) when effecting a detention or arrest to issue a citation.
- 3. Code Compliance Officers shall NOT use force (either physically or by visually displaying equipment) to prevent the departure or escape of a subject.
- 4. The County demands the exercise of good judgment at all times when force is necessary. Each situation explicitly requires the use of force to be reasonable and only that force which reasonably appears to be necessary may be used to mitigate a direct threat. Mere verbal threats of violence, verbal abuse, or hesitancy by the person in following commands do NOT, in and of themselves, justify the use of physical force WITHOUT additional facts or circumstances which, taken together, pose a threat of harm to the Code Compliance Officer or others. Code Compliance Officers must be prudent when applying any type of use of force.
- Unreasonable application of force on a person is a violation of California and federal law, which may result in the criminal prosecution of the Code Compliance Officer and/or civil liability for the Code Compliance Officer and the County.
- 6. Unreasonable application of physical force on an animal is a violation of California Humane Law (California Penal Code 597), which may result in criminal prosecution of the Code Compliance Officer and/or civil liability for the Code Compliance Officer and the County.
- 7. Code Compliance Officers should clearly understand that the standard for determining whether the force applied was reasonable is that conduct which a reasonable Code Compliance Officer would exercise based upon the information the Code Compliance Officer had when the conduct occurred.

- 8. The decision to use physical force places a tremendous responsibility on the Code Compliance Officers. There is no one capable of advising the Code Compliance Officer on how to react in every situation that may occur. Ideally, all situations should require only verbalization. Code Compliance Officers must be able to escalate or de-escalate the response that reasonably appears to be necessary to control a situation.
- 9. A violation of the Department's Officer Safety policies may also subject Code Compliance Officer to discipline.

11.6 Reporting

- 1. Code Compliance Officers are required to immediately report all Officer/staff safety issues to a supervisor. This includes the mere display of officer safety equipment or pepper spray.
- 2. After a verbal notification of an Officer/staff safety issue, the supervisor shall require Code Compliance Officer to submit a written report of the situation.

12.0 CONTRACTORS

12.1 Referral of Contractors to Contractor State License Board

Purpose:

To establish a guideline as to when a contractor is referred to the Contractors State License Board (CSLB).

Policy and Procedures:

Referral to the CSLB should be considered by the Compliance Officer based on the history of violations by a contractor as well as the egregiousness of a violation by the contractor. The Compliance Officer must complete the CSLB Referral Form (Form 19) and attach the necessary supporting documentation and evidence (i.e. copy of stop work, violation notice, photos). The Building Official shall review all referrals and make the final determination of whether the Contractor should be referred to the CSLB.

13.0 SPECIFIC URGENT CIRCUMSTANCES

13.1 Failed Septic

Purpose:

To ensure a uniform response to septic failures.

Policy and Procedures:

Compliance Officers assigned to failed septic calls shall respond immediately to the complaint by inspecting the property and following the procedures below:

- 1. Confirm the existence of the failed septic system. This is usually obvious due to a large hole in the ground and/or the smell of sewage from the area.
- Use extreme caution around the failed septic system. The visible opening of the septic tank may appear to be one or two feet in diameter when the actual tank size might be much larger.
- 3. Immediately secure the general area with caution tape. This area should be taped a minimum of 15 feet away from the tank opening.
- 4. Cover the tank opening with plywood or any other material available to help keep people from falling into the tank.
- 5. Attempt to locate a property owner or tenant.
 - a. If the owner is located on site or if the owner is later contacted, the Compliance Officer shall notify them that they need to call a septic company immediately to respond to the location as soon as possible.
 - b. If the owner cannot be located on site, the Compliance Officer shall immediately make every attempt to contact the owner. Compliance Officers shall use any and all resources available to make contact with the owner; i.e., utility records, property profiles, internet searches, etc. If the Compliance Officer cannot make contact with the owner, the Compliance Officer shall contact the Compliance Supervisor and review the situation to determine whether an emergency abatement is necessary.
 - c. After contact is made, the Compliance Officer shall request that the owner transmit a copy of the contract with the septic company to verify that a contract has been executed for the repair.

13.2 Polluted Water/Mosquito Complaint

Purpose:

To ensure a uniform response to Polluted Water/Mosquito complaints.

Policy and Procedures:

When a Compliance Officer verifies the presence of mosquitoes in or around polluted water, the Compliance Officer shall evaluate the area to determine if the source of water can be quickly removed or cleaned. If the water cannot be quickly abated, the Compliance Officer shall notify Napa County Mosquito Abatement to treat the water. The Compliance Officer's responsibility is to eliminate the polluted water by determining the cause and finding an appropriate method of abating the situation.

13.3 Unsecured Hazardous Pool

Purpose:

To ensure a uniform response to Unsecured Hazardous Pool complaints.

Policy and Procedures:

- 1. Compliance Officers responding to complaints regarding unsecured swimming pools need to abate the violation as quickly as possible. If the pool is over twenty-four inches (24") deep, it is required to have a minimum of a four-foot fence surrounding it.
- 2. If the swimming pool is a seasonal vinyl pool with a blow up ring top or PVC pipe frame or similar style and no fence is present, the pool should be drained immediately.
- 3. If the swimming pool is not properly protected, the Compliance Officer shall make every attempt to notify the property owner by telephone. The Compliance Officer shall also send written notice to the property owner by certified mail that same day, instructing the property owner to repair, replace, or install a protective fence. If the Compliance Officer cannot make contact with the owner, the Compliance Officer shall contact a Code Compliance Supervisor to review the situation to determine whether an emergency abatement is necessary.

13.4 Utility Violations - Lack of Utilities in a Dwelling

Purpose:

To ensure a uniform response to complaints regarding dwellings with no utilities.

Policy and Procedures:

Dwelling properties are required to have hot water at a sink. Utilities must be able to heat a dwelling to seventy (70) degrees at three (3) feet off the floor in all habitable rooms. Electrical lighting is required. Therefore, in most cases, homes are required to have natural gas, electrical, and water services. There may be dwellings that are approved as having all electric appliances and heating and therefore not required to have gas service.

When a Compliance Officer responds to a complaint involving a residence without utilities, the Compliance Officer should take into account:

- 1. The season of year;
- 2. The presence of children or elderly persons in the dwelling;
- 3. Whether the subjects are in the residence legally; and
- 4. What other Code violations are present.

Generally, a Compliance Officer should give a very short time frame for the subjects to turn on the utilities, i.e., one-week maximum. The Compliance Supervisor shall be advised if the Compliance Officer believes the subject needs more than one week to comply.

13.5 Disconnection of Utilities

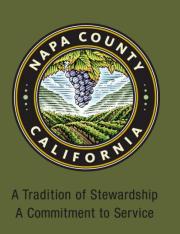
Purpose: To provide a consistent procedure for the removal of utilities which are a hazard to the occupants or neighboring properties.

Policy and Procedures:

- 1. Subsection 111.3 of the California Building Code (CBC) and Section 15.04.0040(E) of the County Code authorizes the Building Official to authorize disconnection of utility service to a building, structure or service system regulated by the CBC in the case of emergency, i.e., where necessary to eliminate an immediate hazard to life or property, such as the imminent danger of fire or electrocution.
- 2. When such a hazardous electrical or gas condition exists in a building or on a property, the Building Official, or the Compliance Officer acting as the Chief Building Official's designee, shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system, of the decision to disconnect a utility service prior to taking such action.
- 3. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing as soon as is practical thereafter.
- 4. In the notice, the owner or occupant should be offered an opportunity to contest the disconnection, by appealing the decision in writing, either before (if time permits) or shortly after the disconnection.
- 5. Additionally, should the Compliance Officer obtain a court order or Abatement Warrant for a property, such order or Warrant should include authorization to disconnect utilities during the abatement of a property nuisance so that utilities can be disconnected prior to the demolition of structures. (Form 20, Notice of Disconnect, and Form 21, PG&E Notification.



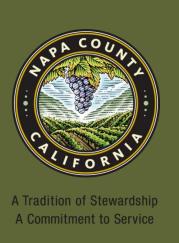
Code Compliance



What we do:

- Building Compliance
 - Illegal Construction
 - Substandard Housing
 - Dangerous Buildings
- Zoning Compliance
 - Use Permits
 - Conservation Regulations
 - Farm Labor Dwellings
 - Short Term Rentals

Code Compliance

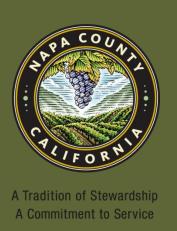


What we do (cont-):

- Property Nuisance
- Grading and Floodplain Violations
- Environmental Health Violations

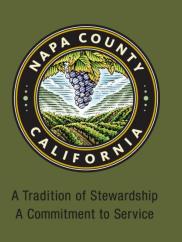
- Five Code Compliance Officers and one Office Assistant
- Currently recruiting for a Code Compliance Manager.

Team Approach



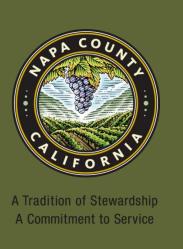
- Problem Oriented Policing Sheriff
- Environmental Health
- Engineering
- Conservation
- Fire
- County Counsel
- District Attorney
- Building and Planning

Compliance Process



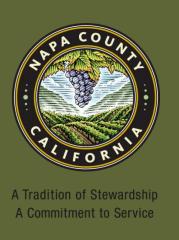
- Encourages Voluntary Compliance
- Initial Letter Informational
 - Identifies violation with a correction date
 - Outlines further action if voluntary compliance is not achieved
- Board Approved Policy and Procedures Manual
- Standardized Forms

Complaint Intake



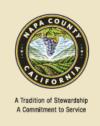
- Most cases are initiated by complaints made from the community.
- Complainant information is kept confidential.
- Community members or visitors may submit complaints by phone, email, in-person, or online.
- Pro-active Enforcement Building and Life Safety

Complaint Priority

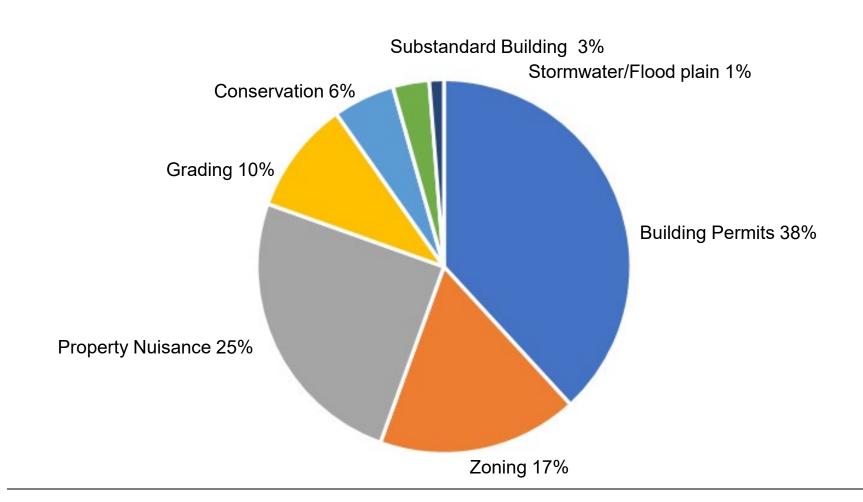


The cases and response times are divided by potential hazards to the community under Priority 1 and Priority 2:

- Priority 1 Safety related complaints such as building without a permit, unsafe structures, and environmental hazards.
- <u>Priority 2</u> Non-Safety related complaints such as zoning violations and property nuisances.



Percentage of Cases 22/23





Permit Enforcement Statistics FY 22/23

- Valuation of illegal construction: \$13.26 million.
- Permit fees captured: \$599,762
- Building investigation fees: \$581,822



Unpermitted Construction





Substandard Buildings



California State Health & Safety Code



Substandard Conditions







Conservation/Creeks

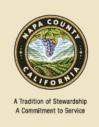






Achievements

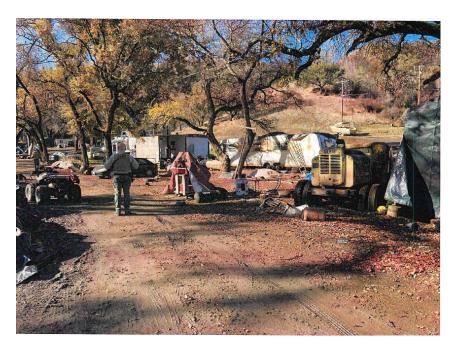
- Reduction of case backlog
 - Improved follow –up on cases Continue to address long-term violations through the assistance of County Counsel.
- Backlog has reached over 1000 cases, however staff has closed some notable long-term case that included unpermitted construction of multiple structures built within the floodplain and two property nuisance abatements.



Substandard Property

Before: trailers, generators, vehicle parts, debris on vacant parcel

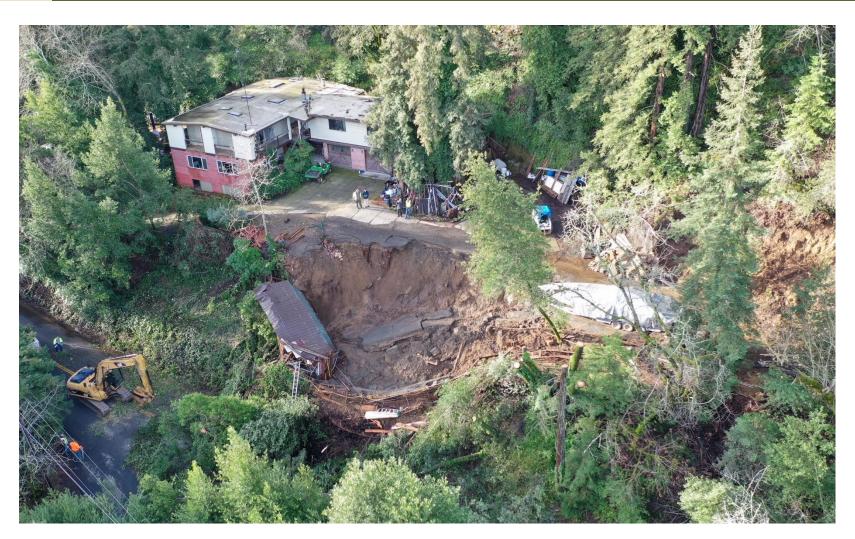
After: Parcel cleared.





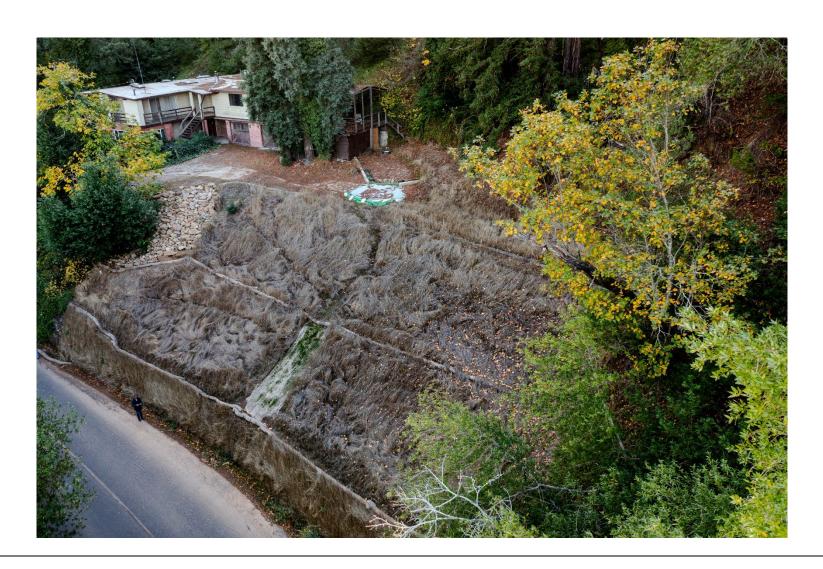


Substandard Property





Substandard Property





Neighborhood Improvement Program

During the program, code staff take to the street, often by foot, and attempt to make contact with the residents regarding minor nuisance violations.

- Maintain healthy neighborhoods throughout the County.
- Proactive approach by educating residents
- Staff's goal is to provide education and discuss the relevant codes.

Some violations staff identify during the inspections are:

- Vehicles parked on an unimproved surface.
- Excess trash and debris.
- Household appliances in the front areas of the property.

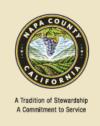


Staff Appreciation

The Compliance Team works hard to promote, protect, and maintain the health, safety, and general welfare of Napa County residents and visitors.

Code staff often goes above and beyond their daily duties and remains ready to lend support to the County during times of uncertainty and emergencies.

- Front line on health order enforcement Monitored and responded 7 days a week;
- Coordinated property clean-up and assisted State OES/FEMA contractors during the LNU Fire Complex;
- Encouraging property owners who opted to do private cleanups to complete their clean-ups to ensure limited negative impacts on the environment and community.



Role of County Counsel

County Counsel Role In Code Compliance Process

- General Advice and Case Management
- Advising Staff on Appropriate and Legal Processes and Procedures
- Inspection Warrants
- Drafting Compliance Agreements
- Referral of Cases for Litigation



Process Improvement

Revisions to Code Compliance Program

- Code Enforcement Policies & Procedures Manual
 - Separate Policies from Procedures
 - Revisions to Forms
- Code Compliance Ordinances
 - Cost Recovery and Cleanup
 - Update to Fines and Penalties
 - Administrative Abatement Procedures



Compliance Program

Questions



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1668

TO: Board of Supervisors

FROM: Brian D. Bordona, Director Planning, Building and Environmental Services,

REPORT BY: Daniel Zador, Planner II

SUBJECT: Williamson Act Agricultural Preserves and Contracts 2023

RECOMMENDATION

PUBLIC HEARING 9:00 AM - Williamson Act Agricultural Preserves and Contracts 2023

Director of Planning, Building and Environmental Services requests adoption of a Resolution establishing certain Agricultural Preserves (Types A & H), and approval of and authorization for the Chair to execute the following Williamson Act Agricultural Contracts:

- 1. Approving three new contracts with the following applicants:
- a. Hunter Holdings II LLC, at 2628 Las Amigas Road;
- b. Marly Holding LLC, at 2955 Sulphur Springs Road;
- c. Pritchard Hill Vineyards LLC, at 1553 Sage Canyon Road; and
- 2. Approving rescission of two existing contracts and replacing with two new contracts with the following applicant:
- a. Stag's Leap Wine Cellars LLC, 5766 Silverado Trail, Napa, CA (Contracts P23-00289 and P23-00290).

EXECUTIVE SUMMARY

In total, there will be an increase of approximately 155.09 acres of new contracted land under Williamson Act brought about by the requested action.

Procedural Requirements

- 1. Open Public Hearing.
- 2. Staff report.
- 3. Public Comment.

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1668

- 4. Close Public Hearing.
- 5. Motion, second, discussion and vote on the requested actions.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? Yes Is it currently budgeted? No

Where is it budgeted? Potential fiscal impacts would derive from lower property tax

revenues following execution of Williamson Act contracts. No

alternate source of revenue has been identified.

Is it Mandatory or Discretionary?

Discretionary

Discretionary Justification: The Williamson Act program in general, and these contracts

specifically, contribute to the preservation of agriculture in Napa County. The primary intent of the California Land Conservation Act (CLCA), also known as the Williamson Act, program is to preserve the limited supply of agricultural land in the state by discouraging premature and unnecessary conversion to urban uses.

Is the general fund affected? Yes

Future fiscal impact: Property taxes for properties covered by a Williamson Act contract

may be assessed at a lower level than other properties. To the extent properties are assessed at a lower level, the County will receive reduced tax revenue. Property owners receive a reduction in property taxes depending on whether they are assessed at the lower of their factored Proposition 13 base year value or the restricted CLCA value. Estimated decreases in County property tax

revenue resulting from the proposed new contracts were not

provided. The Assessor has indicated that the fiscal impact would be similar to those seen in prior years when new contracts were

approved.

Consequences if not approved: The County would not be providing an incentive for keeping land

in agricultural production, which is the intent of the County's

approved General Plan.

County Strategic Plan pillar addressed: Vibrant and Sustainable Environment

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Categorical Exemption Class 17: Open Space Contracts or Easements. It has been determined that this type of project does not have a significant effect on the environment and is exempt for the California Environmental Quality Act. [See Class 17 (Open Space Contracts or Easements) which may be found in the guidelines for the implementation of the California Environmental Quality Act at Title 14 CCR Section 15317.]

BACKGROUND AND DISCUSSION

Requested Preserves and Contracts:

The Director of Planning, Building and Environmental Services requests that the Board open the public hearing, hear public testimony, close the public hearing, and adopt a resolution establishing certain Agricultural

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1668

Preserves (Types A & H), and approving the following new, Type "A" and "H" agricultural preserve contracts within the resulting preserves identified below. Template Type A and H Contracts that property owners identified herein will enter into are attached for reference. The pending owner signed original contracts are with the Department of Planning, Building and Environmental Services.

All proposed Agricultural Preserves are located on lands that have either an Agricultural Resource (AR) General Plan Land Use Designation and an Agricultural Preserve (AP) Zoning Designation, or an Agriculture, Watershed and Open Space (AWOS) General Plan Land Use Designation and an Agricultural Watershed (AW) Zoning Designation, all of which provide for agriculture as the predominant use, and generally limit the types of activities allowed on such parcels to agriculture and other uses deemed compatible with agriculture. Pursuant to the California Land Conservation Act an "Agricultural Preserve" means an area devoted to either agricultural use, recreation use, open-space use, or combination thereof (Government Code Section 51201(d)). Therefore, the proposed Agricultural Preserves are consistent with the County's General Plan and Zoning designations, in that agriculture is the predominant use specified for each.

Three (3) New Contracts for Year 2023/2024:

Requestor:	Type:	APN:	Acreage:
Hunter Holdings II LLC	Н	047-272-017	21.64
Marly Holdings LLC	Н	027-020-081	88.60
Pritchard Hill Vineyards LLC	Н	032-510-004	44.85

Rescinding two (2) existing contracts and replacement with two (2) new contracts:

1. Contract #67/70/A and Contract #1300161 are being rescinded and replaced by two new contracts due to a lot line adjustment:

Stag's Leap Wine Cellars LLC.

New contracts being entered into due to the rescission of the contracts identified in 1 above:

Requestor:	Type:	APN:	Acreage:
Stag's Leap Wine Cellars LLC	Н	039-030-043	43.14
Stag's Leap Wine Cellars LLC	A	039-030-044	61.00

Attached are template forms of the Type A and Type H Contract being offered and entered into this year. Signed originals of the contracts requested for approval are available for review and inspection with the Board Clerk.

Notice of the Board's intent to consider and take possible action on the proposed Agricultural Preserves and agricultural preserve contracts was published in the Napa Valley Register on Friday November 16, 2023. For preserves located within a mile of an incorporated city, written notice was provided to the City of St. Helena, and the Napa County Local Agency Formation Commission (LAFCO) on November 8, 2023. The published notice had included two rescind and replace contracts for Robert Mondavi Winery (i.e. P23-00302 and P23-00303); however, the lot line adjustment has not be completed yet, so those two contracts were removed from this item, as reflected in the proposed Resolution.

The California Land Conservation Act of 1965 and County Participation:

The California Land Conservation Act (CLCA) of 1965, which is commonly referred to as the Williamson Act, enables local governments to enter into voluntary contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners may receive property tax assessments that are lower than normal because they are based upon farming and open space uses as opposed to full market value. Pursuant to California Government Code (CGC) Section 51230, the County -by resolution and after a public hearing -- may establish agricultural preserves and subsequently enter into agricultural preserve contracts pursuant to Section 51240 of the CGC.

The County has been participating in the Williamson Act program since 1969 as a tool for promoting agricultural land preservation consistent with the County's agricultural heritage and General Plan agricultural preservation goals and policies which include the following: Goal AG/LU-1, "Preserve existing agricultural land uses and planed of agriculture and related activities as the primary land use in Napa"; and Policy AG/LU-6, "The County will continue to study tax assessment policies which recognize the long-term intent of agricultural zoning and the fact that agricultural land uses require a minimum of public expenditure for protection and servicing".

Napa County has designed its rules to require that each property subject to contract constitutes its own CLCA preserve. Whether or not a parcel is eligible for a contract and associated CLCA preserve depends on its size and agricultural use as determined by the Planning, Building and Environmental Services (PBES) Department in cooperation with the Agricultural Commissioner. To qualify for the establishment of a CLCA preserve and associated contract, a parcel must meet a minimum size requirement and contain a bona fide agricultural use (or Agricultural commodity as defined by Government Code Section 51201(a). For prime agricultural land, if a parcel is either zoned AP or meets the definition of Prime Agricultural Land within local rules, a minimum of 10 acres is required. For non-prime agricultural land (i.e. grazing land) a minimum 40-acre parcel is required.

Currently the County offers three types of contracts, Type A, Type C, and Type H. Type A and C contracts are specific to the Agricultural Preserve (AP) zoning district, and Type H contracts are specific to the Agricultural Watershed and Open Space (AWOS) zoning district. Type C contracts are special circumstance contracts that allow the ability to contract a parcel between 5 and 10 acres in size provided it meets specific conditions, in particular that at least 75% of the parcel is in commercial agriculture and that it contributes to the diversity of crops in Napa County. Agricultural preserve contracts have a rolling 10-year term: each year the contract is automatically renewed for an additional year, unless a notice of non-renewal is given by either the County or contract holder/owner.

Financial Implications of the CLCA in Napa County:

As of January 1, 2023 there are 740 CLCA contracts within the County covering 928 parcels which contain approximately 84,247 acres of land. According to the Assessor, of these 928 parcels 543 parcels receive a property tax benefit from CLCA contracts. The other 385 parcels are assessed at their Proposition 13 factored base year value. The total assessed value reduction for the 543 parcels receiving a benefit is \$1,099,825,727 which translates into approximately \$1.93 million in reduced tax revenue for the Napa County general fund. The Assessor has indicated that the fiscal impact would be similar to those seen in prior years when new contracts were approved. Currently there are approximately 1,098.29 contracted acres within the county that are in non-renewal.

Subvention Payments:

The Open Space Subvention Act (OSSA) was enacted by the State in 1972 to provide for the partial

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1668

replacement of local property tax revenue foregone as a result of participating in the CLCA and other open space programs. The State eliminated subvention funding in the 2009-2010 Fiscal Year budget. In 2009, the last year the county received full subvention funding, the subvention payment to Napa County was approximately \$90,000.

In an effort to address the fiscal impacts associated with the elimination of subvention payments, the Legislature passed SB 863 in 2010. SB 863 established a temporary alternative funding source for counties which might otherwise be forced to non-renew all Williamson Act contracts due to the loss of State subventions, by providing counties a method to backfill subvention payment by imposing a direct charge on contract holders equal to 10% of their property tax savings. SB 863 also included a one-time appropriation of \$10 million to the State subvention fund which provided approximately \$22,000 to Napa County for 2010-2011 Fiscal Year, or approximately 25% of its normal subvention.

On January 25, 2011, the Board of Supervisors reviewed the CLCA program as a result of the elimination of the State subvention funds and SB 863. The Board discussed the provisions of Senate Bill (SB) 863, acknowledging that non-renewal of Williamson Act contracts would have little immediate effect (because of the 9-year phase out), and emphasized that continued participation in the Williamson Act program is consistent with the County's general plan focus on agricultural preservation values. The Board unanimously voted to continue Napa County's participation the CLCA as currently administered.

RESOLUTION NO. 2023-158

RESOLUTION OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA AMENDING OR ESTABLISHING CERTAIN AGRICULTURAL PRESERVES (TYPES A & H)

WHEREAS, this Board conducted a public hearing on December 5, 2023, as required by California Government Code section 51230, to determine whether to approve those applications for new Type A and H Agricultural Preserves which are identified in Exhibit "A", attached hereto and incorporated by reference herein; and

WHEREAS, it has been determined that this type of project does not have a significant effect on the environment and is exempt for the California Environmental Quality Act [See Class 17 (Open Space Contracts or Easements) which may be found in the guidelines for the implementation of the California Environmental Quality Act at Title 14 CCR Section 15317.].

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors as follows:

- 1. The Board finds and determines in regard to each Agricultural Preserve proposed in Exhibit "A" that is less than one hundred (100) acres in size, that the smaller preserve size is necessary due to the unique characteristic of the agricultural enterprises to be conducted within the preserve and the adjacent area, and further finds that the size of each such proposed preserve is consistent with the Napa County General Plan.
- 2. The Boards finds and determines that the public interest, convenience, and necessity require the establishment of each of the Agricultural Preserves identified in Exhibit "A".
- 3. The Board authorizes the Chair to execute each of the corresponding contracts associated with the Agricultural Preserves identified in Exhibit "A".

[Remainder of Page Left Blank Intentionally]

4. The Board directs the Clerk of the Board to record with the Napa County Recorder a copy of each contract, together with a reference to the map showing the location of the agricultural preserve in which the property lies.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED

by the Napa County Board of Supervisors, State of California, at a regular meeting of said Board held on the 5th day of December 2023, by the following vote:

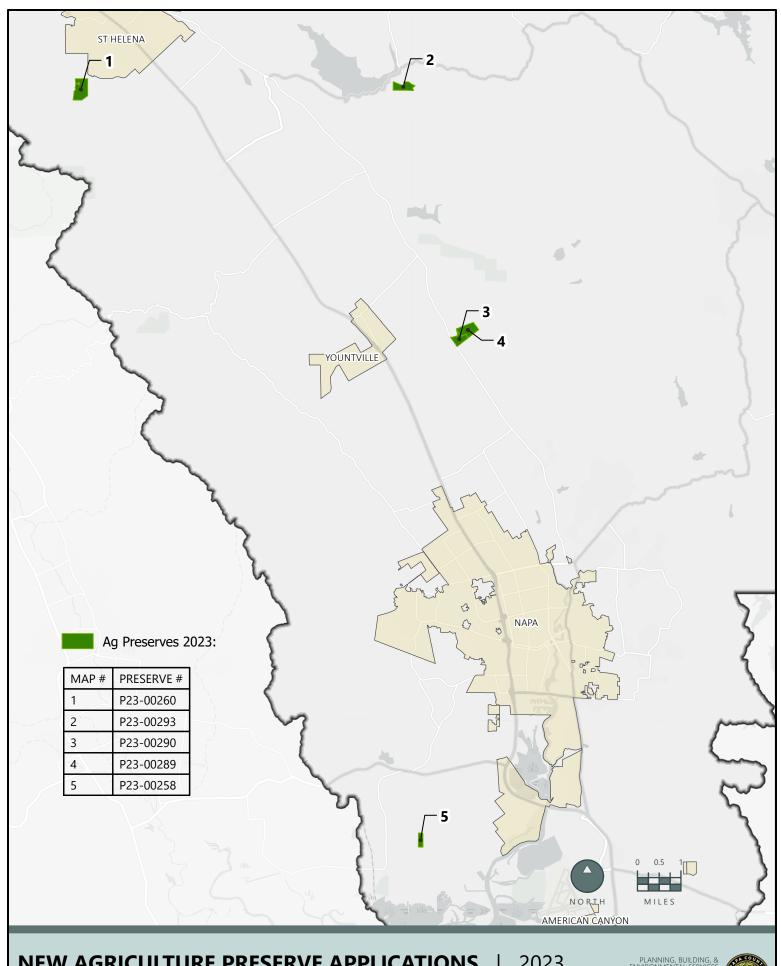
AYES:	SUPERVISORS	
NOES:	SUPERVISORS	
ABSTAIN:	SUPERVISORS	
ABSENT:	SUPERVISORS	
		NAPA COUNTY, a political subdivision of the State of California
	Ву:	BELIA RAMOS, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: <u>Chris R.Y. Apallas</u> Deputy County Counsel	Date: December 5, 2023 Processed By:	By:
Date: November 21, 2023 Doc. No. 103899	Deputy Clerk of the Board	

EXHIBIT "A"
NEW AGRICULTURAL PRESERVE APPLICATIONS 2023*

#	Preserve Number	Property Owner	Preserve Type	Acreage	Assessor's Parcel Number	General Area	Min. Annual Imputed Income/AC	Gen. Plan Desig.	City Proximity Notice Req'd	LAFCO Notice Req'd	Affirmative Ag.Com. Opinion Filed
1	P23-00258	Hunter Holding LLC	Н	21.64	047-272-017	2628 Las Amigas Road	\$80.00	AWOS	No	No	Yes
2	P23-00260	Marley Holdings LLC	Н	88.60	027-020-081	2955 Sulphur Springs Road	\$50.00	AWOS	Yes St. Helena	Yes	Yes
3	P23-00289	Stag's Leap Wine Cellars LLC	Н	43.14	039-030-043	5766 Silverado Trail	\$80.00	AR	No	No	Yes
4	P23-00290	Stag's Leap Wine Cellars LLC	A	61.00	039-030-044	5766 Silverado Trail	N/A	AR	No	No	Yes
5	P23-00293	Prichard Hill Vineyards LLC	Н	44.85	032-510-004	1553 Sage Canyon Road	\$80.00	AWOS	No	No	Yes

^{*}The information provided in this table is required pursuant to the California Land Conservation (Williamson) Act.



NEW AGRICULTURE PRESERVE APPLICATIONS

2023

PLANNING, BUILDING, & ENVIRONMENTAL SERVICES 1195 THIRD STREET, SUITE 210 NAPA, CA 94559 (707) 253-4417



DATE PUBLISHED: 11/15/2023 DATE REVISED: 11/21/2023 AUTHOR: SC MAP SCALE: 1:140,000

Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.



1710 Soscol Avenue Suite 3 Napa, CA 94559-1311 www.countyofnapa.org

Main: (707) 253-4357 Fax: (707) 253-4881

Tracy Cleveland
Agricultural Commissioner/
Sealer of Weights & Measures

MEMORANDUM

То:	Napa County Department of Planning, Building & Environmental Services (PBES)	From:	Agricultural Commissioner/ Sealer of Weights & Measures
Date:	November 15, 2023	Re:	2023 Williamson Act Agricultural Contract Applications, Confirmation of Agricultural Use

In response to the PBES Department's November 7, 2023 referral for the 2023 Agricultural Contract Applications, the Agricultural Commissioner has the following opinion on the referenced applications.

#	Record Number	Property Owner	Assessor's Parcel Number	Acre age	Contract Type	Agricultural Use Confirmation
1	P23-00258	Hunter Holdings II LLC	047-272-017	21.64	Н	Yes
2	P23-00260	Marly Holdings LLC	027-020-081	88.60	Н	Yes
3	P23-00293	Pritchard Hill Vineyards LLC	032-510-004	44.85	Н	Yes
4	P23-00289	Stag's Leap Wine Cellars LLC	039-030-043	43.14	Н	Yes
5	P23-00290	Stag's Leap Wine Cellars LLC	039-030-044	61.00	A	Yes
6	P23-00302	Robert Mondavi Winery	027-280-067 (tba)	93.76	Α	Yes
7	P23-00303	Robert Mondavi Winery	027-280-066 (tba)	32.75	A	Yes

(tba = to be adjusted)

If you have any questions or would like to discuss any of these opinions further, please let me know.

Respectfully,

Tracy Cleveland

Agricultural Commissioner/Sealer of Weights & Measures

and and

Recording requested by and when recorded send to:

Napa County Planning, Building & Environmental Services Department 1195 Third Street, Suite 210 Napa, California 94559

Recording Exempt from Recording Fee: Gov. Code section 27383

APN (s): xxx-xxx-xxx

FOR USE BY RECORDER ONLY

NAPA COUNTY AGRICULTURAL PRESERVE CONTRACT

(TYPE "A")

THIS TYPE A AGRICULTURAL PRESERVE CONTRACT NO. ____ is made and entered into as of this ____ day of _____, 20___, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "County," and ______, hereinafter referred to (collectively) as "Owners".

RECITALS

WHEREAS, Owner is the owner of certain real property ("the subject property") located in the unincorporated area of Napa County, known as Assessor's Parcel Number ______ on the Napa County Assessor's Maps in effect on the date first above written, and further described in Exhibit "A" attached hereto and incorporated by reference herein; and

WHEREAS, both Owner and County desire to enter into this Contract to limit the use of the subject property, which has been designated in County's zoning regulations as Agricultural Preserve (AP), to agricultural uses and other uses compatible with agriculture as part of an overall program under the Williamson Act (Government Code section 51200 et seq., hereinafter referred to as "Williamson Act" or "Act") designed to conserve the economic resources of the State of California and County by maximizing the amount of agricultural land preserved so as to maintain the local agricultural economy, assure an adequate food supply for future residents of the County and State, discourage premature and unnecessary conversion of agricultural land to other than agricultural uses, and prevent loss of the value to the public of the open space utility of the land, both parties recognizing that such land when so preserved for agriculture and open space constitutes an important physical, social, aesthetic and economic asset of County and the State of California; and

WHEREAS, placement of the subject property in an agricultural preserve and accompanying execution and approval of this Contract by the Board of Supervisors of County constitutes a determination by the Board that the highest and best use of the subject property during the term of the Contract or any renewal thereof is for agricultural and compatible uses, as defined in this Contract, the rules and regulations applicable to the agricultural preserve, and the Williamson Act; and

WHEREAS, Owner and County intend the terms, conditions and restrictions of this Contract to be substantially similar to or, as permitted by Government Code section 51240, more restrictive than those required generally for agricultural preserve contracts by the Williamson Act and to that end intend that this Contract shall constitute an "enforceable restriction" within the meaning and for the purposes of Section 8 of Article XIII of the California Constitution and Sections 422 and 423 of the California Revenue and Taxation Code.

TERMS

NOW, THEREFORE, Owner and County, in consideration of the mutual promises, covenants and conditions herein contained and the substantial public benefits to be derived therefrom, do hereby agree as follows:

- I. CONTRACT MADE PURSUANT TO LAND CONSERVATION ACT: This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 of Part 1 of Division 1 of Title 5 of the California Government Code, commencing with Section 51200), as amended, commonly known as the Williamson Act, and is subject to all the provisions of that Act which are herein incorporated by reference, including any subsequent amendments thereto. This Contract is also subject to the provisions of those Type A Rules adopted by resolution of County's Board of Supervisors and amended from time to time thereafter which are in effect during the term of this Contract.
- **II.** <u>**DEFINITIONS**</u>: Except as expressly otherwise set forth herein, the definitions set forth in Government Code section 51201 shall apply to this Contract. In addition, for purposes of this Contract, "Owner" or "Owners" shall mean all persons having any record title interest in the subject property.
- III. CONSIDERATION AND WAIVER OF PAYMENT: Owner shall not receive any payment from County in consideration of the obligations imposed on Owner or its successors in interest under this Contract, it being recognized and agreed that the consideration for the execution of this Contract is the substantial public benefit to be derived therefrom, and the advantage that may accrue to the Owner as a result of the effect upon the assessed value of the subject property on account of the restrictions on the use of the subject property contained in this Contract.

IV. RESTRICTIONS ON USE OF PROPERTY:

A. Permitted Uses. During the term of this Contract, the subject property shall not be used by Owner or Owner's successors in interest for any purpose other than the following,

obtaining all necessary use or other permits for such uses when required by County zoning, building, or other ordinances:

- (1) Agriculture, which, for the purposes of this Contract shall mean the raising of crops or livestock, including the following:
 - Growing and raising trees, vines, shrubs, berries, vegetables, nursery stock, hay, grain and similar food crops and fiber crops;
 - Grazing of livestock and feeding incidental thereto;
 - Animal husbandry, including, without limitation, the breeding and raising
 of cattle, sheep, horses, goats, pigs, rabbits, and poultry and egg
 production;
 - Sale of agricultural products grown, raised or produced on the subject property.
- (2) Farm management uses meeting all of the standards in subsections (F)(1) through (F)(6) of section 18.08.040 of the Napa County Code.
- One single family dwelling or one mobilehome for the entire subject property, if otherwise permitted by County's zoning, building and safety regulations. If more than one single family dwelling (including a second unit otherwise permitted by County zoning regulations including those pertaining to legal nonconformities) exists on the subject property upon commencement of the term of the Contract, Owner shall either convert such additional unit(s) to one of the other uses permitted under this Section or shall remove the unit(s);
- (4) Residential Care Facilities (Small), as defined in Section 18.08.540(A) of the Napa County Code;
- (5) Family Day Care Homes (Small), as defined in Section 18.08.290(A) of the Napa County Code;
- (6) Family Day Care Homes (Large), subject to Section 18.08.290(B) of the Napa County Code;
- (7) One guest cottage provided that all of the conditions set forth in Section 18.104.080 are met;
- (8) Farm labor housing:
- (9) Agricultural processing facilities, including but not limited to, wineries, dairies, dehydrators, and fruit and vegetable packing plants;
- (10) Kennels and veterinary facilities;
- (11) Feed lots;
- (12) Non-commercial wind energy and conversion systems;
- (13) Antennas, cable, telephone and other telecommunications facilities, including satellite earth stations, to the extent permitted by Chapters 18.16, 18.119 and/or 18.120 of the Napa County Code;
- (14) Maintenance and emergency repairs of legally-created levees, as permitted by Section 18.20.020 of the Napa County Code;
- (15) Temporary Events, as defined in Chapter 5.36 of the Napa County Code, as long as such events are conducted during normal fallow periods in the agricultural use of the subject property or are otherwise conducted in a manner which does not prevent or interfere with use of the subject property for agriculture;
- (16) Erection, construction, alteration or maintenance of gas, electric, water and sewage facilities, including transmission lines and water reservoirs, as long as

- such facilities do not prevent or otherwise interfere with the primary use of the subject property for agriculture.
- Effect of Zoning Regulations and Preserve Rules. This Contract may prohibit В. certain uses of the subject property that would otherwise be allowed by the zoning district in which the subject property is located. Nevertheless, during the term of this Contract the permitted uses of the subject property shall be limited to those uses identified in subsection (A), above. County and Owner further agree that if, during the term of this Contract, County's Board of Supervisors amends such Rules, in the manner permitted by the Williamson Act, to permit additional uses within Type A preserves or to restrict or eliminate within Type A preserves any of the uses set forth in subsection (A), such amendment shall be deemed automatically incorporated into subsection (A), above, as an amendment of this Contract from that point forward. Notwithstanding the preceding sentence, in the event that the zoning is changed to eliminate a use which is provided for in subsection (A), and Owner has not exercised such use if a use permit is not required, or obtained a use permit and used that use permit in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080 prior to the adoption of the zoning change, exercising such use shall not be permitted. If an Owner has engaged in a use formerly allowed by both subsection (A) and the zoning regulations in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080, and the zoning subsequently changes to prohibit such use, Owner shall not be prevented from continuing to exercise such use a legal nonconforming use.

V. PARCEL SIZE AND NUMBER REQUIREMENTS:

One Legal Parcel Per Contract. During the term of this Contract, the subject property shall consist only of one "legal parcel" as that term is defined in Napa County Code section 17.02.320, as amended from time to time, and all of the property within that legal parcel shall be subject to this Contract. If, at any time during the term of this Contract, the subject property is determined by the County Assessor to contain more than one legal parcel in consequence of the application by Owner and subsequent recordation by County of one or more certificate(s) of compliance, Owner agrees to immediately commence and diligently pursue to completion prior to the next property tax lien date all legal actions, including the payment of any fees prescribed by law or by resolution of County's Board of Supervisors, necessary to either rescind this Contract and simultaneously to enter into separate Williamson Contracts for each of the legal parcels within the subject property or to merge into a single legal parcel all such parcels or portions of parcels then comprising the subject property and to record and/or consent to the recordation of such documents. County and Owner further agree that if Owner establishes, to the satisfaction of the County Director of Planning, Building and Environmental Services, that it has become legally impossible for Owner, for reasons beyond the control of Owner, to either complete such merger of the subject property into a single legal parcel or to rescind and replace this Contract with new Williamson Act contracts for all of the subject property, then by their respective approval of this Contract County's Board of Supervisors shall be deemed to have authorized Owner, and Owner shall be deemed to have consented and agrees to immediately file with the County Director of Planning, Building and Environmental Services a Notice of Non-Renewal (partial) of the Contract, as permitted by Government Code section 51245 and provided in Section VII, below, for the portions of the subject property for which such corrective actions have been so determined to be legally impossible, as permitted by Government Code section 51245. Such Notice of Non-Renewal (partial) shall be accompanied by the processing fee then

in effect established to cover the cost of processing the request. Simultaneously with filing such Notice of Non-Renewal (partial), Owner shall also file an application with the County Assessor, accompanied by the processing fee then in effect, requesting the County Assessor to separate for purposes of assessment ("SFAP") as of the next assessment roll the portion of the property to which the Notice of Non-Renewal (partial) applies from the remaining portion of the subject property. As long as Owner has filed and not withdrawn such Notice of Non-Renewal (partial) and SFAP Application with the accompanying processing fees, following such determination of legal impossibility, County agrees not to seek court redress from Owner for the violation of this subsection otherwise caused by this multiplicity of legal parcels within the subject property during the remainder of term of the Contract applicable to the non-renewed portion of the subject property.

B. Minimum Parcel Size. Except as otherwise permitted in accordance with Government Code section 51230.2 in relation to certain subdivisions made for the purpose of agricultural laborer housing facilities, the legal parcel containing and comprised of the subject project during the term of this Contract shall be no less than ten (10) acres in size in the case of "prime agricultural land" and no less than forty (40) acres in size in the case of land which is not "prime agricultural land" as such term is defined in Section 51201(c) of the Government Code.

VI. TERM:

- **A. Date of Commencement**. The term of this Contract shall commence on the property tax lien date (January 1) immediately following the date of its execution by Owner and County.
- **B.** Length of Initial Term. The initial term of this Contract shall be ten (10) years from the Date of Commencement, unless sooner terminated in accordance with the provisions hereof.
- **C. Automatic Renewal**. This Contract shall be automatically renewed on each succeeding January 1st, which shall be deemed to be the "annual renewal date" of the Contract. Upon each such annual renewal date, one (1) additional year shall be automatically added to the initial term hereof, unless Notice of Non-Renewal is given by Owner or County as provided in Section VII, below.
- **D.** Length of Term after Notice of Non-Renewal. If County or Owner serves notice of intent in any year to not renew this Contract, the Contract shall remain in effect for the balance of the term remaining, dated from the Date of Commencement of the Contract or from the last automatic renewal of the Contract, whichever is latest. During the balance of the term remaining after service of the Notice of Non-Renewal, the terms and conditions of the Contract shall remain in full force and effect.

VII. NOTICE OF NON-RENEWAL:

A. Service of Notice of Non-Renewal. If either party desires in any year not to renew this Contract, the party shall serve written Notice of Non-Renewal upon the other party in advance of the annual renewal date of the Contract. If the notice is filed by the owner, the notice shall be accompanied by the fee then in effect established to cover the cost of processing the Notice. Unless such written Notice of Non-Renewal is served by Owner at least ninety (90) days prior to the annual renewal date, or by County at least sixty (60) days prior to the annual renewal date, this Contract shall be considered renewed for another year as provided in Section VI(C), above. A Notice of Non-Renewal filed after such dates but prior to the annual renewal date shall

be deemed to have been filed after the annual renewal date and shall not become effective until the next annual renewal date.

No later than twenty (20) days after County receives a Notice of Non-Renewal from Owner, serves a Notice of Non-Renewal upon Owner, or withdraws a Notice on Non-Renewal, the clerk of the board shall record with the county recorder a copy of the Notice of Non-Renewal or Notice of Withdrawal of Non-Renewal.

- **B.** Protest and Withdrawal. If County serves a written Notice of Non-Renewal of this Contract as provided in (A), above, Owner may submit to County, within ten (10) days after Owner's receipt of the Notice of Non-Renewal, a written protest of such non-renewal. County may, in its sole discretion, at any time prior to the next annual renewal date, withdraw its Notice of Non-Renewal, in which case this Contract shall continue in full force and effect as if no Notice of Non-Renewal had been served by County.
- **C. Execution of Notice of Non-Renewal**. A written Notice of Non-Renewal submitted for Owner must be executed by all owners of a fee interest and by all owners of a security interest in the subject property.
- **D.** Partial Non-Renewal. Except as provided in Section V(A), above, a written Notice of Non-Renewal under this Contract must relate to the whole of the subject property, including but not limited to all property that was originally included in a single Williamson Act contract but later was subdivided for joint family management purposes pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.

VIII. <u>ASSESSMENT</u>:

- A. Enforceable Restriction. The subject property shall be enforceably restricted within the meaning, and for the purpose, of Section 8 of Article XIII of the California Constitution. The County Assessor shall assess the subject property in accordance with the provisions of Article 1.5 of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code, commencing with Section 421 thereof.
- **B.** Calculation of Income. For the purposes of Revenue and Taxation Code Section 423(a)(3), the parties stipulate that for purposes of calculating the value of the subject property, County, through its Assessor, shall apply either (i) the then actual agricultural and compatible uses rental income earned by the subject property, or (ii) the fair rental income (also known as the market or economic rental income) which the subject property is capable of earning, whichever is greater.
- C. Valuation After Service of Notice of Non-Renewal. If either party serves a Notice of Non-Renewal pursuant to the provisions of Section VII, above, the County Assessor shall thereafter value the subject property in the manner provided in Revenue and Taxation Code Section 426; provided, however, that if during the term of this Contract the State of California provides through appropriate legislation other methods for assessing the subject property either before or after the filing of a Notice of Non-Renewal, the County Assessor shall assess the subject property in accordance with such legislation and any amendments thereto.
- **IX.** AUTOMATIC TERMINATION BY EMINENT DOMAIN: The effect on the subject property and the legal relationship of the parties under this Contract of any of the following events shall be as set forth in the Williamson Act, as such may be amended from time:
- **A. Eminent Domain**. Any action in eminent domain for condemnation of the fee title or any interest less than the fee title of the subject property or any portion thereof; or

- **B.** Acquisition in Lieu of Eminent Domain. The acquisition of the subject property for a "public improvement" by a public agency or other person "in lieu of eminent domain," as those terms are defined in the Act; or
- **C. Federal Acquisition**. Any such action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government.
- X. <u>CONTRACT SUBJECT TO EXERCISE OF POLICE POWER</u>: Nothing in this Contract shall limit or supersede the planning, zoning, health, safety or other police powers of County or the right of County to exercise such powers with regard to the subject property, including, but not limited to, those powers derived from the State Planning and Zoning Law and the State Housing Law.

XI. <u>CANCELLATION</u>:

- A. Petition for Cancellation. Except as otherwise provided in Government Code section 51257 in relation to removal of land from Williamson Act contracts in connection with certain lot line adjustments, this Contract may not be canceled in whole or in part in relation to any portion of the subject property except following a request by Owner in conformance with the provisions of this Section and in compliance with the provisions of the Williamson Act pertaining to cancellation. In accordance with such cancellation provisions, Owner may petition the Board for cancellation of this Contract as to all or any portion of the subject property. Any Owner-initiated request to cancel must be joined in by all owners of a fee interest and all owners of a security interest in the subject property. For purposes of this Section, "subject property" includes, but is not limited to, all property originally included in a single Williamson Act contract but later subdivided pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.
- **B.** Notice and Hearing on Petition for Cancellation. Following the filing of the petition for cancellation of the Contract described in subsection (A), above, County shall give notice of, and the Board shall hold a public hearing on the matter in accordance with the provisions of California law pertaining to cancellation of Williamson Act contracts, including Government Code Section 51284. In addition, at least ten (10) working days prior to the hearing, a notice of the hearing and a copy of the Owner's Petition for Cancellation shall be mailed to the Director of Planning, Building and Environmental Services.
- **C. Required Findings**. Following such public hearing, the Board may approve the requested cancellation of the Contract only if the Board makes such findings as are required by Sections 51280 et. seq. of the Act. The existence of an opportunity for another use of the subject property shall not be sufficient reason for the cancellation of this Contract. A potential alternative use of the subject property may be considered only if there is no proximate, noncontracted land suitable for the use proposed for the subject property. Likewise, the uneconomic character of an existing agricultural use shall not be sufficient reason for cancellation of this Contract, but shall be considered only if the subject property may be put to no other reasonable or comparable agricultural use.
- **D.** Payment of Cancellation Fees. As part of any petition by Owner for the cancellation of this Contract, Owner shall acknowledge Owner's readiness and willingness to pay to the County Treasurer a cancellation fee equal to the amount calculated pursuant to Section 51283 of the Code, as that section may be in effect at the time of the petition. If the petition for

cancellation is approved by the Board, collection and distribution of the cancellation fee shall be accomplished in the manner as specified in the Williamson Act. Upon compliance with the provisions of Government Code section 51283.4, the Board shall execute a certificate of cancellation of contract and cause the same to be recorded.

XII. <u>SUBDIVISION; LOT LINE ADJUSTMENT</u>:

- **A. Subdivision**. The subject property shall not be subdivided during the term of this Contract except to the extent:
 - (1) permitted by section 51230.1, in which case Owner and County shall simultaneously rescind and enter into new Williamson Act contracts for each of the resulting parcels; or
 - (2) permitted by section 51230.2, in which case all of the subdivided property shall be subject to the same contract.
- **Lot Line Adjustment**. County and Owner expressly agree that application by В. Owner for a lot line adjustment involving the subject property or any portion thereof shall be deemed by Owner and County to constitute a request and consent by Owner to rescind and replace this Contract with one or more new Williamson Act contracts for the resulting parcels, so as to ensure that all of the subject property will remain under Williamson Act contract following approval and completion of the lot line adjustment, except as otherwise provided by Government Code section 51257 if the lot line adjustment is approved prior to sunset of that provision, and to further ensure that all of the property within each adjusted parcel which contains any portion of the subject property will fully comply with the requirements of subsection (A) of Section V that each replacement Williamson Act contract contain only one legal parcel and all property within each successor legal parcel remains subject to a Williamson Act contract. County hereby agrees that as long as Owner has executed such replacement contracts, obtained execution of such contracts with any other owners of land involved in the lot line adjustment, and filed such executed contracts with County, along with any required contract application fees, prior to or simultaneously with the filing with County Director of Public Works of the deeds necessary to consummate the lot line adjustment, County will not deem Owner to be in breach of Section V of this Contract even though, in consequence of those provisions of the Williamson Act pertaining to the timing of approval of new contracts, approval and recording of the replacement Williamson Act contracts at the earliest legally available opportunity may not occur until after the lot line adjustment deeds have been recorded.

XIII. <u>VOLUNTARY CONVEYANCE</u>; <u>ENCUMBRANCES</u>:

- A. Conveyance Limitations for Subject Property under Joint Management Agreement. Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code section 51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be conveyed by Owner to anyone other than a member of Owner's immediate family unless all of the resulting parcels containing the property included in the original single Williamson Act contract are conveyed to a single individual by deeds which merge all such parcels into a single legal parcel subject to a replacement Williamson Act contract.
- B. Encumbrance Limitations for Subject Property under Joint Management Agreement. Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code section

51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be encumbered unless all of the parcels containing the property that had been included in the original Williamson Act contract prior to such subdivision are also encumbered as a part of the same transaction.

- **XIV.** <u>AUTOMATIC TERMINATION</u>: If it should be finally determined by judicial proceedings that this Contract does not constitute an enforceable restriction within the meaning of the California Revenue and Taxation Code, except for an unenforceability arising out of the non-renewal of this Contract, for any tax year during the term of this Contract or any renewals thereof, then, and in that event, this Contract shall be null, void and without further effect, and the subject property shall be from that time free from any restriction whatsoever under this Contract.
- XV. <u>ENFORCEMENT OF CONTRACT</u>: Any conveyance, contract, or authorization (whether oral or written) by Owner or the successors in interest of Owner which would permit use of the subject property contrary to the terms of this Contract may be declared void by the County's Board of Supervisors and such declaration and the terms and provisions of this Contract may be enforced by County by an action filed in the Superior Court of the County for the purpose of compelling compliance or restraining the breach thereof. The enforcement proceedings provided in this Contract shall not be exclusive, and both the Owner and County may pursue any other remedies available to them in law or equity.
- XVI. MATERIAL BREACH: Any commercial, industrial, or residential building constructed that exceeds 2,500 square feet, that is not allowed under the Williamson Act, this contract, local uniform rules or ordinances consistent with the provisions of the Williamson Act, and that is not related to an agricultural use or compatible use, will be considered to be a material breach of the contract pursuant to California Government Code Section 51250. The County shall notify the Owner of the breach. The Owner will have sixty (60) days from the time of delivery of the notice, if delivered in person, sixty-five (65) days from the date of mailing if the notice is mailed to the Owner at an address within the State of California, or seventy (70) days from the date of mailing if the notice is mailed to the Owner at an address outside the State of California to eliminate the condition that caused the breach. If the breach is not eliminated within the specified timeframe, the Board shall hold a noticed public hearing pursuant to California Government Code Section 51250 to hear evidence regarding the alleged breach and if the Board determines at the conclusion of the hearing that a material breach continues to exist as described in this section, the Board may order the Owner to eliminate the condition that caused the breach or assess a monetary penalty and record a certificate of contract termination. If the Owner disagrees with the determination, the Owner may pursue any other legal remedy that is available. All County costs associated with elimination of the breach shall be borne by the Owner. Costs shall be as established by Resolution of the Board.

XVII. INDEMNIFICATION; EXCULPATORY CLAUSE:

A. Hold Harmless, Defense and Indemnification. Owner agrees to defend, indemnify and hold County harmless from any claim, demand or causes of action or action for damages involving Owner's interest or rights in and to the subject property or arising out of the existence or implementation of this Contract.

B. Warranty of Authority of Signatories for Owner and Encumbrance Holders.

All persons signing this Contract as Owner represent that they own fee title interest in the subject property and are entitled to and possess the authority to enter into this Contract and to bind the subject property in accordance with the terms of this Contract. All persons signing this Contract as lessees or as holders of encumbrances on the subject property represent that they legally own such leasehold interest or hold such encumbrances and are authorized and entitled to subrogate such encumbrances or leasehold interests to the terms and conditions of this Contract.

XVIII. COSTS OF LITIGATION: If County is made party, without any fault on its part, to any litigation commenced by or against Owner, Owner shall and will pay all costs together with reasonable attorney's fees incurred by or imposed upon County by or in connection with such litigation; further, Owner shall and will pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the covenants and agreements of this Contract.

XIX. PENALTY:

- A. Failure of Interested Party to Sign Contract. If, after submission of this Contract by Owner to County and execution of this Contract by County, it is determined that a person or entity who has an interest in the subject property has not signed the Contract, then Owner shall be obligated to County for a sum equal to the difference between the taxes actually assessed and paid under the Contract and the taxes that would have been assessed and paid in the absence of a Contract. Such additional sum shall be levied for all times during which such interested person has not signed the Contract. The calculation of such tax differential shall be pro-rated on a monthly basis until Owner obtains the necessary additional signatures.
- **B.** Continuing Obligation Absent Recorded Assumption. In the event of a conveyance of the subject property, the Owner shall continue to be personally liable for such additional sums incurred under subsection (A) even after the conveyance of all of Owner's interest in the subject property, unless there has been recorded in the office of the Napa County Recorder a document approved as to form by the Napa County Counsel, by which the new Owner assumes all such liabilities.
- **XX.** <u>NO WAIVER</u>: The waiver by either party to this Contract of any breach or violation of any requirement of this Contract by the other party 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 Contract.
- **XXI.** <u>NOTICES</u>: All notices required or authorized by this Contract 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	<u>OWNER</u>
Napa County Planning, Building &	
Environmental Services Department	
•	

1195 Third Street, Suite 210 Napa, CA 94559	
	AGENT FOR SERVICE OF PROCESS

XXII. SEVERABILITY: If any of the provisions of this Contract shall contravene, or be invalid under any law, such contravention or invalidity shall not invalidate the whole Contract, but it shall be construed as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the parties hereto shall be construed and enforced accordingly.

XXIII. <u>SUCCESSORS IN INTEREST</u>: This Contract shall constitute a covenant running with the subject property and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. This Contract may be enforced by either party or by any owner of land within the same agricultural preserve which is subject to a similar Contract.

XXIV. ASSESSMENT INFORMATION: During the term of this Contract and thereafter until all statutes of limitation applicable to assessment of property taxes for the subject property for periods during the term of the Contract, Owner shall provide County, upon request, with all information concerning Owner's agricultural activities upon the subject property, including income derived and expenses incurred in the course of Owner's agricultural pursuits in relation to the subject property. Said information is agreed by the parties to be necessary to implement the property tax assessment process, pursuant to the Williamson Act and the corresponding relevant portions of the California Revenue and Taxation Code, and said information shall be, at the request of the County, verified by a public accountant without expense to County.

- **XXV. JOINT MANAGEMENT AGREEMENT**: If, during the term of this Contract, Owner desires to subdivide the subject property under the conditions permitted by Government Code section 51230.1 for intra-family transfers under joint management agreement, the following provisions shall apply:
- A. Obligation to Submit Joint Management Agreement to County. Owner agrees that no final subdivision or parcel map submitted by or on behalf of Owner to the County Director of Public Works shall be deemed authorized by Owner for recordation unless Owner has simultaneously submitted to County a fully executed written joint management agreement between Owner and the immediate family members of Owner who are parties to the proposed transfer of the parcels to be created by the subdivision map or parcel map.
- **B. Minimum Contents of Joint Management Agreement**. The joint management agreement required under subsection (A), above, shall provide, at a minimum, the following: the parties to the agreement warrant that the portion of land to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of this Contract as if it were still a single unsubdivided unit; for purposes of the joint management agreement and Government Code section 51230.1, the term "immediate family" means the spouse, registered domestic partner, the biological, adopted, or step children, the parents, or the

siblings of Owner; the parties to the agreement agree and acknowledge that County is an intended third party beneficiary of the joint management agreement; County shall have the right, as a third party beneficiary to the agreement, to enforce the terms thereof; and the parties to the agreement, including Owner, shall be jointly and severally liable to pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the agreement.

IN WITNESS WHEREOF, Owner and County have hereunto executed this Contract as of the day and year first above written.

OWNER(S)	NAPA COUNTY, a State of California	NAPA COUNTY, a political subdivision of the State of California			
Signature	ByALFREDO PEDRO? Chair of the Board or	•			
Printed Name					
APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors			
By:	Date: Processed By:	By:			
Date:	Deputy Clerk of the Board				

SUBROGATION

WE, THE UNDERSIGNED LESSEES OR TRUST DEED OR OTHER ENCUMBRANCE HOLDERS, DO HEREBY AGREE TO, AND AGREE TO BE BOUND BY, THE TERMS OF THIS CONTRACT.

Name	Nature of Interest or Encumbrance		

NOTE: All holders of a fee or leasehold interest and all holders of a security interest in the subject property as of the date of approval by County shall join in the execution of this Contract.

All such signatures must be acknowledged by a Notary.

EXHIBIT "A" LEGAL DESCRIPTION OF CONTRACTED LAND

Recording requested by and when recorded send to:

Napa County Planning, Building & Environmental Services Department 1195 Third Street, Suite 210 Napa, California 94559

Recording Exempt from Recording Fee: Gov. Code section 27383

APN (s): xxx-xxx-xxx

FOR USE BY RECORDER ONLY

NAPA COUNTY AGRICULTURAL PRESERVE CONTRACT

(TYPE "H")

THIS TYPE H AC	GRICULTURA	AL PRESERVE CC	NTRACT NO	is made and
entered into as of this	_ day of	, 20, by a	nd between NAPA (COUNTY, a
political subdivision of th	e State of Cali	ifornia, hereinafter	referred to as "Cour	ıty," and
		, a	, herei	inafter referred to
(collectively) as "Owner"	•			

RECITALS

WHEREAS, Owner is the owner of certain real property ("the subject property") located in the unincorporated area of Napa County, known as Assessor's Parcel Number
on the Napa County Assessor's Maps in effect on the date first above written, and further described in Exhibit "A" attached hereto and incorporated by reference herein; and

WHEREAS, as permitted by the Williamson Act (Government Code section 51200 *et seq.* hereinafter referred to as "the Act"), County's Board of Supervisors by resolution has adopted Rules governing the establishment and administration of agricultural preserves ("Type H preserves") on lands in the unincorporated territory of Napa County not zoned Agricultural Preserve but nevertheless primarily devoted to and suitable for agricultural use as defined in Government Code section 51201(b) and as to which County desires to offer landowners the opportunity to enter into Type H agricultural preserve contracts; and

WHEREAS, County having, upon application by Owner, established a Type H agricultural preserve comprised of the subject project, County and Owner now desire to enter into this Type H Contract for the subject property, for the purpose of enforceably restricting the use of the subject property to agricultural uses and uses deemed compatible with agriculture, as part of an overall program by County and the State of California under the Act to maximize

the amount of agricultural land preserved and maintain the local agricultural economy in order to conserve the economic resources of the State and County, assure an adequate food supply for future residents of the County and State, discourage premature and unnecessary conversion of agricultural land to other than agricultural uses, and prevent loss of the value to the public of the open space utility of the land, County and Owner mutually recognizing that the subject property, when so preserved for agriculture and open space constitutes an important physical, social, aesthetic and economic asset of County and the State of California; and

WHEREAS, the placement of the subject property in a Type H preserve and the accompanying execution and approval of this Contract by County's Board of Supervisors constitutes a determination by the Board that the highest and best use of the subject property during the term of the Contract or any renewal thereof is for agricultural and compatible uses, as defined in this Contract, the Rules and regulations applicable to the agricultural preserve, and the Act; and

WHEREAS, Owner and County intend the terms, conditions and restrictions of this Contract to be substantially similar to or, as permitted by Government Code section 51240, more restrictive than those required generally for agricultural preserve contracts by the Act and to that end intend that this Contract shall constitute an "enforceable restriction" within the meaning and for the purposes of Section 8 of Article XIII of the California Constitution and Sections 422 and 423 of the California Revenue and Taxation Code.

TERMS

NOW, THEREFORE, Owner and County, in consideration of the mutual promises, covenants and conditions herein contained and the substantial public benefits to be derived therefrom, do hereby agree as follows:

- I. CONTRACT MADE PURSUANT TO LAND CONSERVATION ACT: This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 of Part 1 of Division 1 of Title 5 of the California Government Code, commencing with Section 51200), as amended, commonly known as the Williamson Act, and is subject to all the provisions of that Act which are herein incorporated by reference, including any subsequent amendments thereto. This Contract is also subject to the provisions of those Type H Rules adopted by resolution of County's Board of Supervisors and amended from time to time thereafter which are in effect during the term of this Contract.
- II. <u>DEFINITIONS:</u> Except as expressly otherwise set forth herein, the definitions set forth in Government Code section 51201 shall apply to this Contract. In addition, for purposes of this Contract, "Owner" or "Owners" shall mean all persons having any record title interest in the subject property.

III. <u>CONSIDERATION AND WAIVER OF PAYMENT:</u> Owner shall not receive any payment from County in consideration of the obligations imposed on Owner or its successors in interest under this Contract, it being recognized and agreed that the consideration for the execution of this Contract is the substantial public benefit to be derived therefrom, and the advantage that may accrue to the Owner as a result of the effect upon the assessed value of the subject property on account of the restrictions on the use of the subject property contained in this Contract.

IV. RESTRICTIONS ON USE OF PROPERTY:

- **A. Permitted Uses.** During the term of this Contract, the subject property shall not be used by Owner or Owner's successors in interest for any purpose other than the following, obtaining all necessary use or other permits for such uses when required by County zoning, building, or other ordinances:
- (1) *Agriculture,* which, for the purposes of this Contract shall mean the raising of crops or livestock, including the following:
 - Growing and raising trees, vines, shrubs, berries, vegetables, nursery stock, hay, grain and similar food crops and fiber crops;
 - Grazing of livestock and feeding incidental thereto;
 - Animal husbandry, including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits, and poultry and egg production;
 - Sale of agricultural products grown, raised or produced on the subject property;
- (2) Farm management uses meeting all of the standards in subsections (F)(1) through (F)(6) of section 18.08.040 of the Napa County Code.
- (3) One single family dwelling or one mobilehome for the entire subject property, if otherwise permitted by County's zoning, building and safety regulations. If more than one single family dwelling, other than a second dwelling unit as described in (4), below, otherwise permitted by County zoning regulations including those pertaining to legal nonconformities exists on the subject property upon commencement of the term of the Contract, Owner shall either convert such additional unit(s) to one of the other uses permitted under this Section or shall remove the unit(s);
- (4) One second dwelling unit, either attached to or detached from the single family dwelling unit described in (3), above, provided that all of the conditions set forth in Section 18.104.180 of the Napa County Code are met;
- (5) Residential Care Facilities (Small), as defined in Section 18.08.540(A) of the Napa County Code;
- (6) Family Day Care Homes (Small), as defined in Section 18.08.290(A) of the Napa County Code;
- (7) Family Day Care Homes (Large), subject to Section 18.08.290(B) of the Napa County Code:
- (8) One guest cottage, provided that all of the conditions set forth in Section 18.104.080 of the Napa County Code are met;

- (9) *Farm labor housing*;
- (10) Agricultural processing facilities, including but not limited to, wineries, dairies, dehydrators, and fruit and vegetable packing plants, and permitted uses accessory thereto;
 - (11) Kennels, horse boarding and/or training facilities, and veterinary facilities;
 - (12) Feed lots;
 - (13) Non-commercial wind energy and conversion systems;
- (14) Antennas, cable, telephone and other telecommunications facilities, including satellite earth stations, to the extent permitted by Chapters 18.20, 18.119, and/or 18.120 of the Napa County Code;
 - (15) Floating Dock, as permitted by Section 18.20.020 of the Napa County Code;
- (16) *Maintenance and emergency repairs of legally-created levees,* as permitted by Section 18.20.020 of the Napa County Code;
- (17) *Temporary Events*, as defined in Chapter 5.36 of the Napa County Code, as long as such events are conducted during normal fallow periods in the agricultural use of the subject property or are otherwise conducted in a manner which does not prevent agricultural use of the subject property;
- (18) Erection, construction, alteration or maintenance of gas, electric, water and sewage facilities, including transmission lines and water reservoirs, as long as such facilities do not prevent or otherwise interfere with the primary use of the subject property for agriculture;
- (19) Public outdoor recreational uses permitted by the Napa County Code for the zoning district within which the subject property is located, as long as such uses are also conducted in a manner consistent with Section 51238.1 of the California Government Code.
- В. Effect of Change in Zoning Regulations and Preserve Rules. This Contract may prohibit certain uses of the subject property that would otherwise be allowed by the zoning district in which the subject property is located. Nevertheless, during the term of this Contract the permitted uses of the subject property shall be limited to those uses identified in subsection (A), above. County and Owner further agree that if, during the term of this Contract, County's Board of Supervisors amends such Rules, in the manner permitted by the Williamson Act, to permit additional uses within Type H preserves or to restrict or eliminate within Type H preserves any of the uses set forth in subsection (A), such amendment shall be deemed automatically incorporated into subsection (A), above, as an amendment of this Contract from that point forward. Notwithstanding the preceding sentence, in the event that the zoning is changed to eliminate a use which is provided for in subsection (A), and Owner has not exercised such use if a use permit is not required, or obtained a use permit and used that use permit in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080 prior to the adoption of the zoning change, exercising such use shall not be permitted. If an Owner has engaged in a use formerly allowed by both subsection (A) and the zoning regulations in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080, and the zoning subsequently changes to prohibit such use, Owner shall not be prevented from continuing to exercise such use a legal nonconforming use

V. PARCEL SIZE AND NUMBER REQUIREMENTS:

- One Legal Parcel Per Contract. During the term of this Contract, the subject property shall consist only of one "legal parcel" as that term is defined in Napa County Code section 17.02.320, as amended from time to time, and all of the property within that legal parcel shall be subject to this Contract. If, at any time during the term of this Contract, the subject property is determined by the County Assessor to contain more than one legal parcel in consequence of the application by Owner and subsequent recordation by County of one or more certificate(s) of compliance, Owner agrees to immediately commence and diligently pursue to completion prior to the next property tax lien date all legal actions, including the payment of any fees prescribed by law or by resolution of County's Board of Supervisors, necessary to either rescind this Contract and simultaneously to enter into separate Williamson Contracts for each of the legal parcels within the subject property or to merge into a single legal parcel all such parcels or portions of parcels then comprising the subject property and to record and/or consent to the recordation of such documents. County and Owner further agree that if Owner establishes, to the satisfaction of the County Director of Planning, Building & Environmental Services, that it has become legally impossible for Owner, for reasons beyond the control of Owner, to either complete such merger of the subject property into a single legal parcel or to rescind and replace this Contract with new Williamson Act contracts for all of the subject property, then by their respective approval of this Contract the board of supervisors of County shall be deemed to have authorized Owner, and Owner shall be deemed to have consented and agrees to immediately file with the County Director of Planning, Building & Environmental Services a Notice of Non-Renewal (partial) of the Contract, as permitted by Government Code section 51245 and provided in Section VII, below, for the portions of the subject property for which such corrective actions have been so determined to be legally impossible, as permitted by Government Code section 51245. Such Notice of Non-Renewal (partial) shall be accompanied by the processing fee then in effect established to cover the cost of processing the request. Simultaneously with filing such Notice of Non-Renewal (partial), Owner shall also file an application with the County Assessor, accompanied by the processing fee then in effect, requesting the County Assessor to separate for purposes of assessment ("SFAP") as of the next assessment roll the portion of the property to which the Notice of Non-Renewal (partial) applies from the remaining portion of the subject property. As long as Owner has filed and not withdrawn such Notice of Non-Renewal (partial) and SFAP Application with the accompanying processing fees, following such determination of legal impossibility, County agrees not to seek court redress from Owner for the violation of this subsection otherwise caused by this multiplicity of legal parcels within the subject property during the remainder of term of the Contract applicable to the non-renewed portion of the subject property.
- **B. Minimum Parcel Size.** Except as otherwise permitted in accordance with Government Code section 51230.2 in relation to certain subdivisions made for the purpose of agricultural laborer housing facilities, the legal parcel containing and comprised of the subject project during the term of this Contract shall be no less than ten (10) acres in size in the case of "prime agricultural land" and no less than forty (40) acres in size in the case of land which is not "prime agricultural land" as such term is defined in Section 51201(c) of the Government Code.

VI. TERM:

- **A. Date of Commencement.** The term of this Contract shall commence on the property tax lien date (January 1) immediately following the date of its execution by Owner and County.
- **B.** Length of Initial Term. The initial term of this Contract shall be ten (10) years from the Date of Commencement, unless sooner terminated in accordance with the provisions hereof.
- C. Automatic Renewal. This Contract shall be automatically renewed on each succeeding January 1st, which shall be deemed to be the "annual renewal date" of the Contract. Upon each such annual renewal date, one (1) additional year shall be automatically added to the initial term hereof, unless Notice of Non-Renewal is given by Owner or County as provided in Section VII, below.
- **D.** Length of Term after Notice of Non-Renewal. If County or Owner serves notice of intent in any year to not renew this Contract, the Contract shall remain in effect for the balance of the term remaining, dated from the Date of Commencement of the Contract or from the last automatic renewal of the Contract, whichever is latest. During the balance of the term remaining after service of the Notice of Non-Renewal, the terms and conditions of the Contract shall remain in full force and effect.

VII. NOTICE OF NON-RENEWAL:

A. Service of Notice of Non-Renewal. If either party desires in any year not to renew this Contract, the party shall serve written Notice of Non-Renewal upon the other party in advance of the annual renewal date of the Contract. If the notice is filed by the owner, the notice shall be accompanied by the fee then in effect established to cover the cost of processing the Notice. Unless such written Notice of Non-Renewal is served by Owner at least ninety (90) days prior to the annual renewal date, or by County at least sixty (60) days prior to the annual renewal date, this Contract shall be considered renewed for another year as provided in Section VI(C), above. A Notice of Non-Renewal filed after such dates but prior to the annual renewal date shall be deemed to have been filed after the annual renewal date and shall not become effective until the next annual renewal date.

No later than twenty (20) days after County receives a Notice of Non-Renewal from Owner, serves a Notice of Non-Renewal upon Owner, or withdraws a Notice on Non-Renewal, the clerk of the board shall record with the county recorder a copy of the Notice of Non-Renewal or Notice of Withdrawal of Non-Renewal.

- **B. Protest and Withdrawal.** If County serves a written Notice of Non-Renewal of this Contract as provided in (A), above, Owner may submit to County, within ten (10) days after Owner's receipt of the Notice of Non-Renewal, a written protest of such non-renewal. County may, in its sole discretion, at any time prior to the next annual renewal date, withdraw its Notice of Non-Renewal, in which case this Contract shall continue in full force and effect as if no Notice of Non-Renewal had been served by County.
- **C. Execution of Notice of Non-Renewal.** A written Notice of Non-Renewal submitted for Owner must be executed by all owners of a fee interest and by all owners of a security interest in the subject property.

D. Partial Non-Renewal. Except as provided in Section V(A), above, a written Notice of Non-Renewal under this Contract must relate to the whole of the subject property, including but not limited to all property that was originally included in a single Williamson Act contract but later was subdivided for joint family management purposes pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.

VIII. ASSESSMENT:

- **A.** Enforceable Restriction. The subject property shall be enforceably restricted within the meaning, and for the purpose, of Section 8 of Article XIII of the California Constitution. The County Assessor shall assess the subject property in accordance with the provisions of Article 1.5 of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code, commencing with Section 421 thereof.
- **B.** Calculation of Income. For the purposes of Revenue and Taxation Code Section 423(a)(3), the parties stipulate as follows:
- (1) Rental Income. For purposes of calculating the value of the subject property, County, through its Assessor, shall apply either (*i*) the then actual agricultural and compatible uses rental income earned by the subject property, or (*ii*) the fair rental income (also known as the market or economic rental income) which the subject property is capable of earning, whichever is greater.
- (2) <u>Minimum Imputed Income.</u> In all events, the rental income to be used by the Assessor pursuant to subsection (1) above shall not be less than <u>\$</u> per acre (or fraction thereof) per year, this amount being designated as the "minimum imputed income" for the purposes of the Contract.
- (3) Adjustment of Minimum Imputed Income. The "minimum imputed income" shall be subject to review by the Board during each fifth year of the Contract. As a consequence of such review, including consideration of the trend of real estate sales and rental values, and general economic movements, the Board may determine to increase or decrease the "minimum imputed income" by an amount not to exceed ten percent (10%) for the next succeeding five (5) year period. Subsequent fifth year reviews by the Board may authorize County to make similar adjustments upward or downward to said "minimum imputed income," but in no event shall such amount decline below that specified in Section VIII(B)(2) above.
- C. Valuation After Service of Notice of Non-Renewal. If either party serves a Notice of Non-Renewal pursuant to the provisions of Section VII, above, the County Assessor shall thereafter value the subject property in the manner provided in Revenue and Taxation Code Section 426; provided, however, that if during the term of this Contract the State of California provides through appropriate legislation other methods for assessing the subject property either before or after the filing of a Notice of Non-Renewal, the County Assessor shall assess the subject property in accordance with such legislation and any amendments thereto.
- **IX.** AUTOMATIC TERMINATION BY EMINENT DOMAIN: The effect on the subject property and the legal relationship of the parties under this Contract of any of the following events shall be as set forth in the Williamson Act, as such may be amended from time:

- **A. Eminent Domain.** Any action in eminent domain for condemnation of the fee title or any interest less than the fee title of the subject property or any portion thereof; or
- **B.** Acquisition in Lieu of Eminent Domain. The acquisition of the subject property for a "public improvement" by a public agency or other person "in lieu of eminent domain," as those terms are defined in the Act; or
- **C. Federal Acquisition.** Any such action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government.
- X. <u>CONTRACT SUBJECT TO EXERCISE OF POLICE POWER:</u> Nothing in this Contract shall limit or supersede the planning, zoning, health, safety or other police powers of County or the right of County to exercise such powers with regard to the subject property, including, but not limited to, those powers derived from the State Planning and Zoning Law and the State Housing Law.

XI. <u>CANCELLATION:</u>

- A. Petition for Cancellation. Except as otherwise provided in Government Code section 51257 in relation to removal of land from Williamson Act contracts in connection with certain lot line adjustments, this Contract may not be canceled in whole or in part in relation to any portion of the subject property except following a request by Owner in conformance with the provisions of this Section and in compliance with the provisions of the Williamson Act pertaining to cancellation. In accordance with such cancellation provisions, Owner may petition the Board for cancellation of this Contract as to all or any portion of the subject property. Any Owner-initiated request to cancel must be joined in by all owners of a fee interest and all owners of a security interest in the subject property. For purposes of this Section, "subject property" includes, but is not limited to, all property originally included in a single Williamson Act contract but later subdivided pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.
- **B.** Notice and Hearing on Petition for Cancellation. Following the filing of the petition for cancellation of the Contract described in subsection (A), above, County shall give notice of, and the Board shall hold a public hearing on the matter in accordance with the provisions of California law pertaining to cancellation of Williamson Act contracts, including Government Code Section 51284. In addition, at least ten (10) working days prior to the hearing, a notice of the hearing and a copy of the Owner's Petition for Cancellation shall be mailed to the Director of Planning, Building and Environmental Services.
- C. Required Findings. Following such public hearing, the Board may approve the requested cancellation of the Contract only if the Board makes such findings as are required by Sections 51280 et. seq. of the Act. The existence of an opportunity for another use of the subject property shall not be sufficient reason for the cancellation of this Contract. A potential alternative use of the subject property may be considered only if there is no proximate, non-contracted land suitable for the use proposed for the subject property. Likewise, the uneconomic character of an existing agricultural use shall not be sufficient reason for

cancellation of this Contract, but shall be considered only if the subject property may be put to no other reasonable or comparable agricultural use.

D. Payment of Cancellation Fee. As part of any petition by Owner for the cancellation of this Contract, Owner shall acknowledge Owner's readiness and willingness to pay to the County Treasurer a cancellation fee equal to the amount calculated pursuant to Section 51283 of the Code, as that section may be in effect at the time of the petition. If the petition for cancellation is approved by the Board, collection and distribution of the cancellation fee shall be accomplished in the manner as specified in the Williamson Act. Upon compliance with the provisions of Government Code section 51283.4, the Board shall execute certificate of cancellation of contract and cause the same to be recorded.

XII. <u>SUBDIVISION; LOT LINE ADJUSTMENT:</u>

- **A. Subdivision.** The subject property shall not be subdivided during the term of this Contract except to the extent:
- (1) permitted by section 51230.1, in which case Owner and County shall simultaneously rescind and enter into new Williamson Act contracts for each of the resulting parcels; or
- (2) permitted by section 51230.2, in which case all of the subdivided property shall be subject to the same contract.
- Lot Line Adjustment. County and Owner expressly agree that application by Owner for a lot line adjustment involving the subject property or any portion thereof shall be deemed by Owner and County to constitute a request and consent by Owner to rescind and replace this Contract with one or more new Williamson Act contracts for the resulting parcels, so as to ensure that all of the subject property will remain under Williamson Act contract following approval and completion of the lot line adjustment, except as otherwise provided by Government Code section 51257 if the lot line adjustment is approved prior to sunset of that provision, and to further ensure that all of the property within each adjusted parcel which contains any portion of the subject property will fully comply with the requirements of subsection (A) of Section V that each replacement Williamson Act contract contain only one legal parcel and all property within each successor legal parcel remains subject to a Williamson Act contract. County hereby agrees that as long as Owner has executed such replacement contracts, obtained execution of such contracts with any other owners of land involved in the lot line adjustment, and filed such executed contracts with County, along with any required contract application fees, prior to or simultaneously with the filing with County Director of Public Works of the deeds necessary to consummate the lot line adjustment, County will not deem Owner to be in breach of Section V of this Contract even though, in consequence of those provisions of the Williamson Act pertaining to the timing of approval of new contracts, approval and recording of the replacement Williamson Act contracts at the earliest legally available opportunity may not occur until after the lot line adjustment deeds have been recorded.

XIII. VOLUNTARY CONVEYANCE; ENCUMBRANCES:

- A. Conveyance Limitations for Subject Property under Joint Management Agreement. Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code section 51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be conveyed by Owner to anyone other than a member of Owner's immediate family unless all of the resulting parcels containing the property included in the original single Williamson Act contract are conveyed to a single individual by deeds which merge all such parcels into a single legal parcel subject to a replacement Williamson Act contract.
- **B.** Encumbrance Limitations for Subject Property under Joint Management Agreement. Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code section 51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be encumbered unless all of the parcels containing the property that had been included in the original Williamson Act contract prior to such subdivision are also encumbered as a part of the same transaction.
- **XIV.** <u>AUTOMATIC TERMINATION:</u> If it should be finally determined by judicial proceedings that this Contract does not constitute an enforceable restriction within the meaning of the California Revenue and Taxation Code, except for an unenforceability arising out of the non-renewal of this Contract, for any tax year during the term of this Contract or any renewals thereof, then, and in that event, this Contract shall be null, void and without further effect, and the subject property shall be from that time free from any restriction whatsoever under this Contract.
- **XV.** ENFORCEMENT OF CONTRACT: Any conveyance, contract, or authorization (whether oral or written) by Owner or the successors in interest of Owner which would permit use of the subject property contrary to the terms of this Contract may be declared void by the County's Board of Supervisors and such declaration and the terms and provisions of this Contract may be enforced by County by an action filed in the Superior Court of the County for the purpose of compelling compliance or restraining the breach thereof. The enforcement proceedings provided in this Contract shall not be exclusive, and both the Owner and County may pursue any other remedies available to them in law or equity.
- **XVI.** MATERIAL BREACH: Any commercial, industrial, or residential building constructed that exceeds 2,500 square feet, that is not allowed under the Williamson Act, this contract, local uniform rules or ordinances consistent with the provisions of the Williamson Act, and that is not related to an agricultural use or compatible use, will be considered to be a material breach of the contract pursuant to California Government Code Section 51250. The County shall notify the Owner of the breach. The Owner will have sixty (60) days from the time of delivery of the notice, if delivered in person, sixty-five (65) days from the date of mailing if the notice is mailed to the Owner at an address within the State of California, or seventy (70) days from the date of

mailing if the notice is mailed to the Owner at an address outside the State of California to eliminate the condition that caused the breach. If the breach is not eliminated within the specified timeframe, the Board shall hold a noticed public hearing pursuant to California Government Code Section 51250 to hear evidence regarding the alleged breach and if the Board determines at the conclusion of the hearing that a material breach continues to exist as described in this section, the Board may order the Owner to eliminate the condition that caused the breach or assess a monetary penalty and record a certificate of contract termination. If the Owner disagrees with the determination, the Owner may pursue any other legal remedy that is available. All County costs associated with elimination of the breach shall be borne by the Owner. Costs shall be as established by Resolution of the Board.

XVII. <u>INDEMNIFICATION; EXCULPATORY CLAUSE:</u>

- **A.** Hold Harmless, Defense and Indemnification. Owner agrees to defend, indemnify and hold County harmless from any claim, demand or causes of action or action for damages involving Owner's interest or rights in and to the subject property or arising out of the existence or implementation of this Contract.
- B. Warranty of Authority of Signatories for Owner and Encumbrance Holders. All persons signing this Contract as Owner represent that they own fee title interest in the subject property and are entitled to and possess the authority to enter into this Contract and to bind the subject property in accordance with the terms of this Contract. All persons signing this Contract as lessees or as holders of encumbrances on the subject property represent that they legally own such leasehold interest or hold such encumbrances and are authorized and entitled to subrogate such encumbrances or leasehold interests to the terms and conditions of this Contract.

XVIII. COSTS OF LITIGATION: If County is made party, without any fault on its part, to any litigation commenced by or against Owner, Owner shall and will pay all costs together with reasonable attorney's fees incurred by or imposed upon County by or in connection with such litigation; further, Owner shall and will pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the covenants and agreements of this Contract.

XIX. PENALTY:

- A. Failure of Interested Party to Sign Contract. If, after submission of this Contract by Owner to County and execution of this Contract by County, it is determined that a person or entity who has an interest in the subject property has not signed the Contract, then Owner shall be obligated to County for a sum equal to the difference between the taxes actually assessed and paid under the Contract and the taxes that would have been assessed and paid in the absence of a Contract. Such additional sum shall be levied for all times during which such interested person has not signed the Contract. The calculation of such tax differential shall be pro-rated on a monthly basis until Owner obtains the necessary additional signatures.
- **B.** Continuing Obligation Absent Recorded Assumption. In the event of a conveyance of the subject property, the Owner shall continue to be personally liable for such additional sums incurred under subsection (A) even after the conveyance of all of Owner's

interest in the subject property, unless there has been recorded in the office of the Napa County Recorder a document approved as to form by the Napa County Counsel, by which the new Owner assumes all such liabilities.

XX. NO WAIVER: The waiver by either party to this Contract of any breach or violation of any requirement of this Contract by the other party 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 Contract.

XXI. NOTICES: All notices required or authorized by this Contract 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.

OTAB IED

COUNTY	OWNER
Napa County Planning, Building &	
Environmental Services Department	
1195 Third Street, Suite 210	
Napa, CA 94559	
	AGENT FOR SERVICE OF PROCESS

COLUMB

XXII. SEVERABILITY: If any of the provisions of this Contract shall contravene, or be invalid under any law, such contravention or invalidity shall not invalidate the whole Contract, but it shall be construed as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the parties hereto shall be construed and enforced accordingly.

XXIII. SUCCESSORS IN INTEREST: This Contract shall constitute a covenant running with the subject property and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. This Contract may be enforced by either party or by any owner of land within the same agricultural preserve which is subject to a similar Contract.

XXIV. ASSESSMENT INFORMATION: During the term of this Contract and thereafter until all statutes of limitation applicable to assessment of property taxes for the subject property for periods during the term of the Contract, Owner shall provide County, upon request, with all information concerning Owner's agricultural activities upon the subject property, including

income derived and expenses incurred in the course of Owner's agricultural pursuits in relation to the subject property. Said information is agreed by the parties to be necessary to implement the property tax assessment process, pursuant to the Williamson Act and the corresponding relevant portions of the California Revenue and Taxation Code, and said information shall be, at the request of the County, verified by a public accountant without expense to County.

- **XXV. JOINT MANAGEMENT AGREEMENT:** If, during the term of this Contract, Owner desires to subdivide the subject property under the conditions permitted by Government Code section 51230.1 for intra-family transfers under joint management agreement, the following provisions shall apply:
- A. Obligation to Submit Joint Management Agreement to County. Owner agrees that no final subdivision or parcel map submitted by or on behalf of Owner to the County Director of Public Works shall be deemed authorized by Owner for recordation unless Owner has simultaneously submitted to County a fully executed written joint management agreement between Owner and the immediate family members of Owner who are parties to the proposed transfer of the parcels to be created by the subdivision map or parcel map.
- B. Minimum Contents of Joint Management. The joint management agreement required under subsection (A), above, shall provide, at a minimum, the following: the parties to the agreement warrant that the portion of land to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of this Contract as if it were still a single unsubdivided unit; for purposes of the joint management agreement and Government Code section 51230.1, the term "immediate family" means the spouse, domestic partner, the biological, adopted, or step children, the parents, or the siblings of Owner; the parties to the agreement agree and acknowledge that County is an intended third party beneficiary of the joint management agreement; County shall have the right, as a third party beneficiary to the agreement, to enforce the terms thereof; and the parties to the agreement, including Owner, shall be jointly and severally liable to pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the agreement.

///

IN WITNESS WHEREOF, Owner and County have hereunto executed this Contract as of the day and year first above written.

OWNER(S)

NAPA COUNTY, a political subdivision of the State of California

Signature	ALFREDO PEDROZ	ByALFREDO PEDROZA, Chair of the Board of Supervisors		
Printed Name				
APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors		
By:	Date:Processed By:	By:		
Date:	Deputy Clerk of the Board			

SUBROGATION

WE, THE UNDERSIGNED LESSEES OR TRUST DEED OR OTHER ENCUMBRANCE HOLDERS, DO HEREBY AGREE TO, AND AGREE TO BE BOUND BY, THE TERMS OF THIS CONTRACT.

Name	Nature of Interest or Encumbrance		

NOTE: All holders of a fee or leasehold interest and all holders of a security interest in the subject property as of the date of approval by County shall join in the execution of this Contract.

All such signatures must be acknowledged by a Notary.

EXHIBIT "A" LEGAL DESCRIPTION OF CONTRACTED LAND



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1873

TO: Board of Supervisors

FROM: Brian D. Bordona - Director of Planning, Building and Environmental Services

REPORT BY: Trevor Hawkes - Supervising Planner

SUBJECT: Inn at the Abbey proposed Development Agreement terms, Use Permit Major

Modification #P19-00038-MOD

RECOMMENDATION

PUBLIC HEARING 9:00 AM - Inn at the Abbey Development Agreement

Director of Planning, Building and Environmental Services and County Counsel requests discussion and direction regarding proposed terms of a Development Agreement between Napa County and Jackson Family Investments, LCC (Applicant), concerning their existing Use Permit Major Modification application, #P19-00038-MOD, the Inn at the Abbey.

EXECUTIVE SUMMARY

Director of Planning, Building and Environmental Services and County Counsel request that the Board take public comment and provide direction to staff on the applicant's proposed terms of a Development Agreement between the County and Jackson Family Investments, LLC. The Development Agreement would be processed concurrently with the Applicant's pending Use Permit Major Modification No. P19-00038-MOD for the proposed 79-room hotel project known as the Inn at the Abbey, north of the City of St. Helena. The Applicant has proposed onsite affordable housing units for employees, in lieu contributions to affordable housing within the unincorporated county, contributions of easements and rest shelters for the vine trail, and improvement of nonproductive agricultural lands south of Lodi Lane. In return the Applicant seeks the County's formal recognition of historic vested parking for commercial uses on lands zoned Agricultural Watershed (AW), fee credits from future transportation impact fees equal to constructed transportation improvements for the Vine Trail and other transportation improvements, the continued use of vested wastewater treatment on AW zoned lands south of Lodi Lane for all uses south of Lodi Lane, and the allowance of hotel guests to tour agricultural operations on the AW zoned lands south of Lodi Lane.

The 15-acre project site includes six parcels owned by the Applicant. The project site is located approximately one-half mile north of the City of St. Helena in unincorporated Napa County and includes five (5) parcels

File ID #: 23-1873 **Board of Supervisors Agenda Date:** 12/5/2023

(Assessor's Parcel Numbers 022-130-020, -021, -023, -024 and 022-220-028).

PROCEDURAL REQUIREMENTS

- 1. Open public hearing.
- 2. Staff Report.
- 3. Applicant presentation.
- 4. Public comments.
- 5. Close public comments.

6. Board provides direction to staff on the material terms and conditions to be included in the Development Agreement.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No Is it currently budgeted? No

Is it Mandatory or Discretionary? Mandatory

Is the general fund affected? No

Future fiscal impact: None. Staff's time in preparation of the Draft Development

Agreement would be the responsibility of the Applicant to fund.

N/A. Staff requests discussion and directions from the board Consequences if not approved:

concerning an applicant requested proposed Development

Agreement. This action does not obligate the Board to approve the

Development Agreement.

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

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Draft EIR in process. A Notice of Preparation (NOP) was issued on July 23, 2020, and the 30-day public comment period closed on August 24, 2020. Pursuant to CEQA and State CEQA guidelines Section 15064, the discussion of potential effects on the environment in the EIR shall be focused on those impacts that the County has determined may be potentially significant. The County has determined that the project may have significant effects on the environment in the following areas: Aesthetics, Agricultural Resources, Air Quality and Greenhouse Gas Emissions, Biological Resources, Cultural and Tribal Cultural Resources, Energy, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services and Utilities, Transportation/Traffic, and Wildfires.

BACKGROUND AND DISCUSSION

History

In February 2019, the Applicant submitted a Use Permit Major Modification request for the project known as the Inn at the Abbey. The Applicant is currently requesting approval to:

- 1. Demolish three existing buildings currently serving as a restaurant, retail wine shop, art gallery, and five -room motel (10,048 total square feet).
- 2. Develop the North Parcel with a new 55,000 square foot of floor area hotel building, dedicating 21,000

square feet of floor area to 50 guest rooms and 34,000 square feet of floor area for a spa, retail operations, a rooftop terrace and other public areas, circulation, back-of-house uses, and a 54-stall underground parking garage.

- 3. Develop the South Parcel with a 11,000 square foot, 11 guest room, hotel building, a 7,500 square foot 12 guest room barn building, a plunge pool, a 350 square foot fitness studio, and two (2) bungalow buildings totaling approximately 4,000 square feet and containing six (6) guest rooms in total. Retention of six (6) existing on-site residential dwelling units that would be used for workforce housing.
- 4. Landscaping, improvements, and infrastructure associated with the proposed development.
- 5. An additional 48 new employees to the existing 55 employees for a total of 103 employees on the project site.

The 15-acre project site includes six (6) parcels owned by the project applicant. The project site is located approximately one-half mile north of the City of St. Helena in unincorporated Napa County. Three (3) of the six (6) project parcels are either fully or partially zoned with the County's Commercial Limited (CL) Zoning District designation, whose compatibility with the County's Agriculture, Watershed or Open Space policies is enumerated in General Plan policy AG/LU-45. Figure AG/LU-2 from the 2008 General Plan, which shows the location of parcels subject to Policy AG/LU-45 is contained in Attachment B.

Development Agreement

Development Agreements are authorized by state law (Govt. Code Section 65864 et seq.). The purpose of a Development Agreement in this case would be to provide the Applicant with a vested right to develop the project for 20 years in accordance with the applicable laws and entitlements in effect at the time of project approval. In exchange, the Applicant would agree to terms that would address the impacts of the project which could not have been otherwise required under applicable law. A summary of the Applicant's proposed material terms and conditions include the following:

Term Length: 20 years

Applicant proposed terms with public benefit:

- 1. Onsite, affordable housing units for employees: Existing six market rate units to be deed restricted affordable for employees. Provides new affordable housing and reduced vehicles miles traveled (VMT). Applicant contends that restriction of rental rates represents property value of \$3.44 million over twenty years.
- 2. Affordable housing funding: Payment to County's affordable housing trust fund equal to three times current affordable housing fees that would otherwise apply to the project at the time of building permit issuance. Based on the current fees, the contribution would be \$1,580,000 to be paid in two equal payments at building permit issuance and five years after project occupancy. Funds would be made available for use by Napa County or a County designated affordable housing developer (e.g. Our Town St. Helena, Napa Valley Community Housing) for the development of affordable housing.
- 3. Vine Trail/Shelter Easements: In conjunction with the project application, Applicant has contributed easements for the Vine Trail and trail rest shelter without receiving compensation. Due to the timing of the Vine Trail grant process, the Vine Trail asked to grant these easements prior to Applicant receiving approval of the project.

4. Improve South Parcel agricultural lands to productive agricultural use: Proposal includes active agriculture on South Parcel's agriculturally zoned land that is currently fallow. Agricultural uses to consist of growing and harvesting but not processing of agricultural products. Agricultural use intended to provide "farm-to-table" experience for project food service and to educate hotel guests on Napa County's agricultural economy.

Applicant proposed terms benefiting applicant:

- 1. Applicant may modify site plan/building locations so long as total square footage and room count are not increased beyond what was approved as confirmed by PBES Director.
- Applicant continues to use established/vested parking area documented in approved use permit P12-00359-VMM on the AW zoned parcel as shared parking for north and south parcel without intensification of use.
- 3. Fee credit against any future enacted transportation impact fee in amount equal to value of Vine Trail/Shelter easements and other transportation improvements.
- 4. Continued use by applicant of south parcel with historic/vested wastewater treatment system on AW lands for all south parcel uses (employee housing and commercial uses).
- 5. Allow hotel guests to tour model agricultural operations on AW lands south of Lodi Lane. Activities of tour guests limited to uses allowed under definition of "agriculture" in County Code (e.g. retail purchase of agricultural products produced onsite).

The applicant has provided a hotel comparison chart (Attachment C), detailing hotel approvals in Napa County and their affordable housing fee and non-monetary affordable housing measures provided in comparison to the proposed terms for Inn at the Abbey.

Vine Trail Easements

On December 15, 2020, the Applicant and the County entered into Trail Easement Agreements 2021-0012018 and 2021-0012019. With these agreements, the Napa Valley Vine Trail acquired three (3) permanent easements of approximately 14,150 sq. ft. and appraised at approximately \$125,000. These Easement sections run adjacent to APN's 022-220-028, 022-130-023, -024 and where their property lines abut SR-29. The Napa Valley Vine Trail: St. Helena to Calistoga section is currently under construction, although at the time of writing this report the sections which would occupy the aforementioned easements has not commenced.

Historic Commercial Limited Parking and Wastewater Systems on AW Zoned lands

The North Parcel's shared parking between CL and AW zoned lands was recognized in Very Minor Modification P12-00359-VMM. That mod, based upon a review of prior permitting, acknowledged 52,775 sq. ft., or 170 parking spaces located with the Agricultural Watershed (AW) zoning district as parking for Freemark Abbey Winery and the shared uses within the Commercial Limited (CL) zoning district.

The South Parcel's existing commercial and residential use buildings are served by on-site wastewater treatment systems. Historically, uses in the CL-zoned areas of the South Parcel have disposed of 0.93 mgy of wastewater in systems on the AW-zoned areas of the site. This legacy of shared wastewater disposal would be preserved with the new development. Wastewater from the new South Parcel hotel buildings would be disposed of through discharge to the existing underground septic system and disposal to a new on-site gray water

Board of Supervisors Agenda Date: 12/5/2023 File ID #: 23-1873

treatment system.

Use Permit Processing Procedures for Non-Wineries

The applicant requests approval of a Major Modification to an existing Use Permit. Pursuant to Napa County Code 18.124.130(A) modifications to an approved Use Permit shall be processed in compliance with the procedures set forth within the section. Modification which exceed thresholds listed throughout the chapter are considered Major Modifications subject to consideration and a decision by the Napa County Planning Commission (or in the case of a project which requires the certification of an EIR, the Board of Supervisors). The holder of a (non-winery) Use Permit may request that the Zoning Administrator approve minor noncontroversial modifications to approved use permits after giving notice of intent to approve or deny, but without a public hearing in regard to project design or permit conditions which do not affect the overall concept, density, intensity or environmental impact of, or substantially alter or delete any environmental mitigation measure for the project. Consistent with those parameters the Zoning Administrator may approve changes in location and/or size of approved structures or portions thereof, provided that, the zoning administrator shall not consider or approve a minor modification if the result of the approval of the requested minor modification would result in any structure or the aggregate of all approved structures being increased more than 25 percent in size or one story in height based on the size allowed under the approved Use Permit. Additionally, the holder of a (non-winery) Use Permit may request that the Zoning Administrator approve very minor, non-controversial, modifications to approved Use Permits without public notice, including the following:

- An extension of use permit expiration time not to exceed one year beyond the then-operative date of use permit expiration as established in conformance with this chapter, provided that the director shall not approve more than three such extensions of any one use permit or use permit modification approval;
- Small (less than ten percent) changes in square footage or building footprint;
- Realignment of internal circulation roads; and
- Similar items at the discretion of the director.

Staff is requesting direction on the above terms of the proposed Development Agreement. Should the Board request revisions to the proposed terms, they may also request that Staff work with the Applicant and bring those revised proposed terms to the Board at a later date. Direction for Staff to proceed with preparing a Draft Development Agreement does not obligate the Board to approve the Development Agreement. Upon receipt of Board direction, staff will negotiate with the Applicant (consistent with the Board's direction), prepare a draft Development Agreement which will be processed concurrently with the pending Use Permit Major Modification. The terms of the Draft Development Agreement will be analyzed for their environmental impacts in the Inn at the Abbey Draft EIR, which is currently being prepared. Both the Development Agreement and the Use Permit Major Modification will be considered by the Planning Commission, which will make its recommendation to the Board of Supervisors. It is expected that the Planning Commission would consider both proposals in Spring/Summer of 2024, with the Board of Supervisors making the decision in Summer/Fall of 2024. Notice to the public of the future hearings before the Planning Commission and the Board of Supervisors will be provided in advance of the meetings.

Attachment A

Applicant's Proposed Development Agreement Terms

PROPOSED TERMS OF DEVELOPMENT AGREEMENT FOR THE INN AT THE ABBEY

Parties

- Jackson Family Investments, LLC (Landowner)
- Napa County

Project Summary.

A use permit major modification request (P19-00038-MOD) to demolish three buildings and redevelop the site with a 79-room hotel, retail and hotel lounge space, a spa, pool, underground parking, fitness room, back-of-house uses, and on-site employee housing.

The project would involve demolition of three buildings currently used as a restaurant, retail wine shop, art gallery, and five-room motel. The proposed 79 rooms would be split between the North Parcel (50 rooms) and the South Parcel (29 rooms). Minor interior renovations to the existing Stone Building may be required to serve as the hotel's main lobby, meeting space, and/or a dining component. The proposed North Hotel Building (55,000 sf) would replace an existing restaurant building and would be used for the 50 guest rooms, spa, retail operations, circulation, and back-of-house uses. An underground parking garage would be located below the North Hotel Building and would include 54 stalls for valet parking.

On the South Parcel, the existing restaurant and five-room motel buildings would be replaced with a South Hotel Main Building, South Hotel Barn Building, a freestanding fitness studio, and The South Hotel Main Building would include 11 guest rooms, support kitchen and back-of-house uses. The South Hotel Barn Building would include 12 guestrooms with adjacent plunge pool. Buildings on the South Parcel would be connected by a series of walkways, breezeways, patios, courtyards, and landscaped areas. The South Parcel also includes six existing on-site residential dwelling units that would be used to house workers employed on the property.

Term

20 years

Public Benefits

- 1) Onsite, affordable housing units for employees: Existing six market rate units to be deed restricted affordable for employees. Provides new affordable housing and reduced VMT. Restriction of rental rates represents property value of \$3.44 million over twenty years.
- 2) Affordable housing funding: Payment to County's affordable housing trust fund equal to three times current affordable housing fees that would otherwise apply to the project. Contribution calculated at \$1,580,000 to be made in two equal payments at building permit issuance and five years after project occupancy. Funds available for use by Napa County or

affordable housing developer (e.g. Our Town St. Helena, Napa Valley Community Housing) for the development of affordable housing.

- 3) Vine Trail/Shelter Easements: In conjunction with project application, Landowner has contributed easements for Vine Trail and trail rest shelter without receiving compensation. Due to timing of Vine Trail grant process, Vine Trail asked Landowner to grant these easements prior to receiving approval of the project.
- 4) Improve South Parcel agricultural lands to productive agricultural use: Proposal includes active agriculture on South Parcel's agriculturally zoned land that is currently fallow. Agricultural uses to consist of growing and harvesting but not processing of agricultural products. Agricultural use intended to provide "farm-to-table" experience for project food service and to educate hotel guests on Napa County's agricultural economy.

Other Terms.

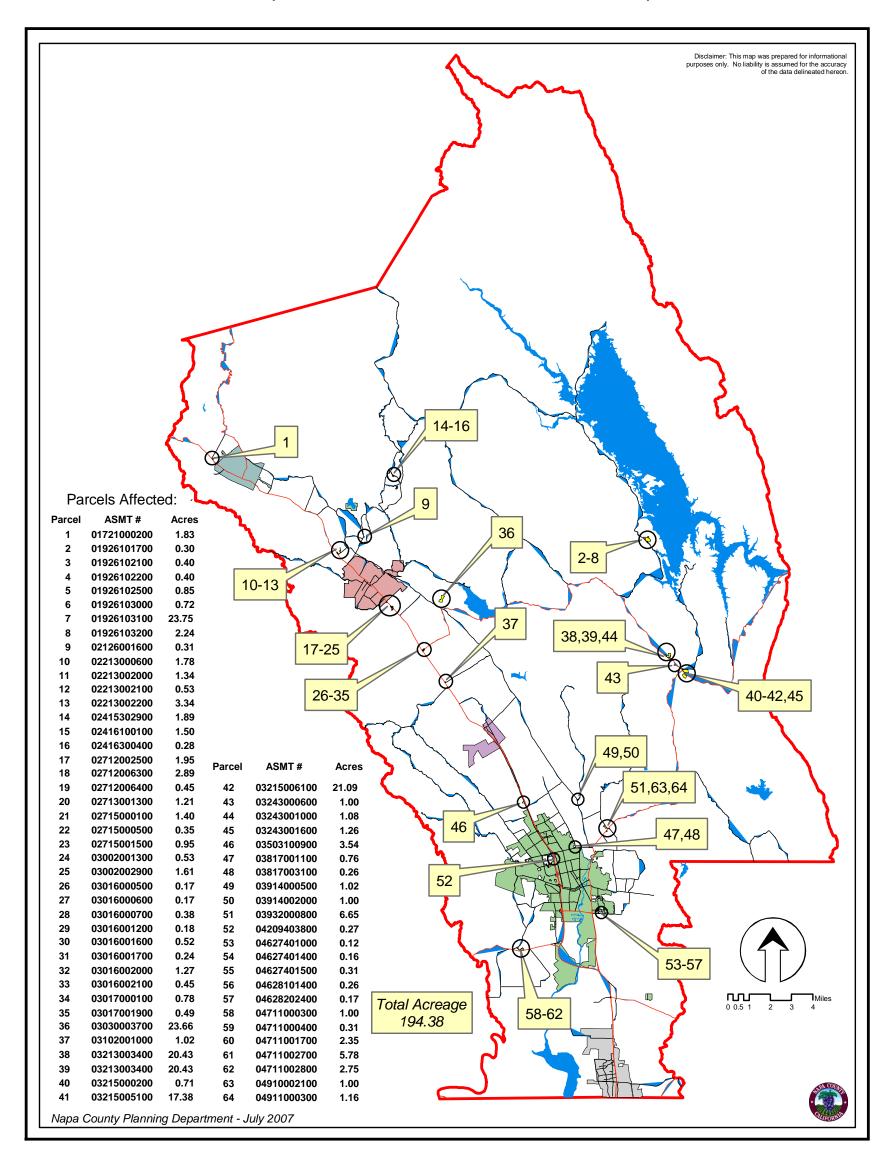
- 1) Landowner may modify site plan/building locations so long as total square footage and room count are not increased beyond what was approved as confirmed by PBES Director.
- 2) Landowner continues to use established/vested parking area documented in approved use permit P12-00359-VMM on AW zoned parcel as shared parking for north and south parcel without intensification of use.
- 3) Fee credit against any future enacted transportation impact fee in amount equal to value of Vine Trail/Shelter easements and other transportation improvements.
- 4) Landowner continues use of south parcel with historic/vested wastewater treatment system on AW lands for all south parcel uses (employee housing and commercial uses).
- Allow hotel guests to tour model agricultural operations on AW lands south of Lodi lane. Activities of tour guests limited to uses allowed under definition of "agriculture" in County Code (e.g. retail purchase of agricultural products produced onsite).

Attachment B

Figure AG/LU-2: Location of Parcels Subject to Policy AG-LU-45



FIGURE AG/LU-2: LOCATION OF PARCELS SUBJECT TO POLICY AG/LU-45



Attachment C

Hotel Comparison Chart

Year	Project	Rooms	SF	AH Fee	Non-monetary AH measure	Jurisdiction
2004	Bardessono	62	213,678	None ¹	Dedication of 1.25 acre portion of site. (28 units were later built by NVCH)	Yountville
2010	Las Alcobas	57 ²	?	\$750,000 ³	None	St. Helena
2018	Marriot	253	155,557 ⁴	\$933,342 ⁵	Purchase of ¾ acre site and promise to construct 12 dwellings for below median income families	City of Napa
2018	Post Office	163	174,396 ⁶	\$1,046,376 ⁷	Funded consultant to propose changes to City's ADU ordinance to encourage more housing	City of Napa
2020	Oak Knoll	50	29,010	+/-\$783,270 ⁸	None	Napa County
2020	Farmstead	65	53,200	\$1m payment to AH trust fund for OTSH use; \$2.2m payment to City AH deferred to 5 years after occupancy)	None	St. Helena
2023	IATA	79	89,945 ⁹	\$1,580,000 payment ¹⁰ (50% at building permit issuance + 50% 5 years after occupancy)	Restriction of existing units for onsite employee affordable housing (\$3.44m value over 20 years)	Napa County

¹ Property dedication in lieu of AH fees. See page 14 of Development Agreement recorded as 2004-0024447.

² Project also included new restaurant.

³ Per 2012 CoSH staff report.

⁴ Project included 26,000 sf winery and 30,000 sf office not included in above.

⁵ Payment just for hotel square footage. Project plans list hotel square footage as 155,557 with City of Napa AH fee of \$6/sf. Project's office and winery incur \$106,067 and \$91,000 respectively.

⁶ Not including parking structure and 78,748 sf retail space.

⁷ Estimate based on hotel square footage at \$6/sf for City of Napa AH fee.

⁸ Applicant agreed to pay triple building permit fees on the hotel. DEIR lists hotel at 29,010 sf. At \$9/sf, AH fees equal 261,090, triple fees reflected above. Past AH fees for restaurant and retail use likely credited to site per NCC §18.107.060.

⁹ New hotel construction subject to AH fees. Normal fee calculated as \$809,505 per NCC §18.107.060 and Board Fee Setting Resolution.

¹⁰ At building permit issuance \$790,000, and \$790,000 five years after occupancy.

Attachment D

Vine Trail Easement Agreements



2021-0012018

Recorded
Official Records
County of
Napa
JOHN TUTEUR
Assessor-Recorder-Co

08:14AM 02-Apr-2021

REC FEE

Page 1 of 26

0.00

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Jose Luis Valdez Clerk of the Napa County Board of Supervisors 1195 Third Street, Room 310 Napa, California 94559

Exempt from recording fees: Gov. Code § 6103 and § 27383

Exempt from documentary transfer tax:

Rev & Tax Code § 11922

Space above this line reserved for County Recorder's use

Assessor's Parcel #(s): 022-130-023 & -024 # 301987-CR

TRAIL EASEMENT AGREEMENT

This TRAIL EASEMENT AGREEMENT (the "Agreement") is made by Jackson Family Investments III, LLC, a California limited liability company ("Grantor"), and Napa County, a political subdivision of the State of California (hereinafter referred to as ("County" or "Grantee"), with an effective possession date of APRIL QV, 2021.

Recitals

WHEREAS, the County supports creating recreational trails for public use, including but not limited to a 47-mile walking and biking trail system to physically, artistically, and culturally connect the entire Napa Valley—from Vallejo to Calistoga (the "Vine Trail");

WHEREAS, Grantor is the owner of the properties located in the County of Napa, State of California and identified as Napa County Assessor's Parcel Nos. 022-130-023 and 022-130-024, and more fully described in Exhibits A-1 and A-2, respectively (the "Properties");

WHEREAS, Grantor is discussing the grant to PG&E of an easement over the Properties for the purpose of installing a natural gas pipeline (the "PG&E Easement"), and Grantor has agreed to grant Grantee a surface-level easement within the PG&E Easement to facilitate completion of the Vine Trail between Calistoga and Yountville;

WHEREAS, the Napa Valley Vine Trail Coalition, a 501(c) non-profit corporation, ("Vine Trail Coalition") is dedicated to facilitating and assisting in the funding of the Vine Trail;

WHEREAS, pursuant to County Agreement No. 190311 and Napa Valley Transportation Authority ("NVTA") Agreement No. 19-12, as amended, NVTA has committed to completing environmental review, obtaining rights of entry and

construction easements, and procuring design and construction services, which activities will require a Temporary Construction Easement in the form attached hereto as <u>Exhibit</u> C;

WHEREAS, during the environmental review, all alternative alignments of the Vine Trail will be studied and considered, and this Agreement will not influence the environmental assessment of the Vine Trail including the need for the project and the selection of the location of the project; and

WHEREAS, County is the public entity best situated to receive the easement for that portion of the Vine Trail in the unincorporated area from Calistoga to Yountville;

NOW, THEREFORE, Grantor and County hereby agree as follows:

- 1. **Recitals.** The foregoing recitals are incorporated into this Agreement.
- 2. Trail Easement. Subject to the terms of this Agreement, Grantor grants County a non-exclusive easement (the "Easement") on, over, and across a strip of land located on the Properties and legally described and depicted in Exhibit B attached hereto and incorporated herein by this reference (the "Easement Area"), for the purpose of using the Easement Area to design, install, repair, improve, and maintain a paved and/or gravel trail, related drainage improvements, any and all utility lines and fixtures, including for utilities such as water, lighting, emergency telephone call boxes, or other telecommunications, and other improvements, for the use and benefit of public users for pedestrian or bicycle use of the Vine Trail, all as provided in, and subject to the terms of, this Agreement. County shall cause all improvements to be designed and installed in accordance with all applicable codes and regulations. The Easement granted herein is made by Grantor subject to all matters of record and any and all matters that would be disclosed by an accurate survey of the Properties and/or the Easement Area.
- 3. Consideration. The undersigned Grantor acknowledges receipt of adequate consideration for Grantor's grant of the Easement herein, which includes the benefit of having the County construct a trail and other improvements that will enhance the Properties.
- 4. **Termination**. On the occurrence of any of the events described in subparagraphs A through E below, Grantor may then or thereafter notify County of its intent to terminate the Easement and this Agreement on ninety (90) days notice (the "Notice Period"). Following such notice, if the condition giving rise to the event is not cured or reasonable efforts to cure are not commenced within that Notice Period (and cure completed within a reasonable period of time thereafter), Grantor may terminate the Easement and this Agreement. On termination of this Agreement and the Easement, County will file a quitclaim to return the Easement Area to Grantor or Grantor's heirs, successors, or assigns after complying with all legal requirements for the vacation of an easement.

- A. If, after the initial construction of the Vine Trail over the Easement Area, the Easement is not, at any time in the future, used by the general public as a pedestrian and bicycle trail for a continuous twelve (12) month period, and such non-use continues through the Notice Period; provided that closure of, or cessation of use upon, the Easement Area at times for repairs, maintenance, reconstruction, or other improvement, due to acts of God or nature, or other causes beyond the reasonable control of County, shall not be deemed abandonment nor count towards said twelve (12) month period;
- B. If this Agreement is for an Easement in the unincorporated area between Calistoga and St. Helena, if any portion of the Vine Trail from Calistoga to St. Helena is not substantially constructed by December 31, 2031;
 - C. County breaches any of Paragraphs 6, 9, 10, or 12 of this Agreement;
- D. If, following the thirtieth (30th) anniversary of the Vine Trail opening for public use within the easement area of the last easement granted to County between Calistoga and St. Helena, the County ceases making annual insurance payments pursuant to Paragraph 9B; or
- E. If as of August 19, 2027, the Vine Trail is not completed within the Easement and/or the final alignment of the Vine Trail (whether or not then constructed) does not or will not cross the either Property through the Easement.
- 5. Restrictions on Use. Subject to Grantor's retained rights of use and access referenced in Paragraph 7 (Grantor's Use of the Easement Area) below, no motorized vehicles (including, without limitation, electric or motorized scooters) shall be permitted to use the Easement Area, save and except for emergency, public safety vehicles (police, fire and ambulance services), normal construction and maintenance vehicles, and motorized wheelchairs or other mobility devices for use by disabled users of the trail. Electric bicycles, as defined in Section 312.5(a) of the California Vehicle Code, will be permitted in the Easement Area in accordance with California state law and/or local ordinance.
- 6. **Maintenance**. County shall operate, repair, and maintain the Easement Area and the trail located therein in good condition and repair and in a good and workman-like manner including, without limitation, keeping it free of graffiti and trash. County or its designee will in good faith take reasonable steps to resolve any damage or maintenance issue on the Easement Area that Grantor brings to the County's attention.

7. Grantor's Use of the Easement Area; Signage; and Fencing.

A. <u>Grantor's Use of the Easement Area</u>. The grant of this Easement shall not restrict in any way (i) Property ingress and egress across the Easement Area; or (ii) any and all lawful operations on Grantor's Properties outside the Easement Area. Without limiting the foregoing, Grantor may use the Easement Area as reasonably necessary to carry out agricultural operations on the Properties, including but not limited to, for access

and turnarounds for farm vehicles and equipment. The Parties acknowledge and agree that the Properties are currently developed with and zoned for commercial uses and that Grantor's pending application to County (#P19-00038) proposes development and activities that are consistent with the Easement. Nothing in this Agreement shall be construed to require that County approve Grantor's pending application. Subject to and without waiving any rights under Paragraph 10 (Indemnity), and without assuming an affirmative obligation to do so, Grantor, or Grantor's heirs, successors, and assigns, may at any time temporarily block public access to the Easement Area when, in their sole judgment, they determine that it is appropriate to do so in accordance with reasonable agricultural practices or if they are engaged in activities that pose a threat to the health or safety of the users of the Easement Area. Grantor shall be entitled to grant additional easements or other rights with respect to the Easement Area (including, without limitation, underground or overhead utility, cable or other similar easements) as long as the same shall not materially interfere with the County's use of the Easement granted under this Agreement.

- B. <u>Signage</u>. County will post and maintain trail signs in the Easement Area warning users of the Vine Trail that their use is at their own risk, that agricultural operations, including spraying, discing/plowing, burning and other operations are ongoing, that users must yield to farming vehicles and equipment on or adjacent to the trail, and must obey all laws at all times while using the trail.
- C. <u>Fencing</u>. The project will include NVTA's installation of a temporary construction fence, as described in <u>Exhibit C</u>, to separate construction activity from commercial and agricultural operations on the Properties. The temporary construction fence will be removed by NVTA after construction is complete.

8. **Representations**. Grantor hereby represents to County that:

- A. The Easement Area is, as of the date this Agreement is executed, subject to a deed of trust encumbrance, and Grantor agrees that it will use commercially reasonable efforts to obtain a subordination agreement from the beneficiary of such deed of trust encumbrance.
- B. Grantor has duly authorized the granting of the Easement provided hereby and execution and delivery of this Agreement.
- C. To Grantor's knowledge, as of the date this Agreement is executed, there are no off-record agreements between Grantor and any party that would prevent the use of the Easement Area for the purposes provided in this Agreement.
- D. To Grantor's knowledge, (i) other than any PG&E natural gas lines and the historical and ongoing use of agricultural pesticides, herbicides and other agricultural substances and/or treatments customarily employed in Grantor's viticultural practices, the Easement Area does not contain hazardous or toxic substances that are in material violation of applicable hazardous materials laws, and (ii) Grantor has not received any

written notice of a violation of applicable hazardous materials laws with respect to the Easement Area.

E. For purposes of this Agreement, the term "Grantor's knowledge" means, as of the date this Agreement is executed, the actual knowledge of Geoff Scott without duty of inquiry or investigation.

9. Insurance and Defense.

- A. <u>Condition of the Trail</u>. Consistent with the County's defense and indemnification obligations in Paragraph 10, prior to any entry on the either Property and continuing through the opening of the Vine Trail for public use in the Easement Area, and continuously thereafter, County shall at all times maintain in full force and effect property damage and comprehensive general liability insurance coverage with an insurance carrier qualified to do business in the State of California to insure against claims for property damage and personal injury (including death) within the Easement Area brought by a user of the Vine Trail arising out of the condition thereof, with limits of at least \$1,000,000 for property damage claims per occurrence and \$1,000,000 for personal injury or death claims per occurrence (with aggregate limits double each of those respective amounts), subject to whatever underlying self insurance County elects to maintain, as set forth in a letter from the County's risk/insurance manager to Grantor.
- B. Insurance for Agricultural Activities. In addition to the above insurance and in consideration of this Agreement and all other Vine Trail easements granted to County between Calistoga and Yountville, County agrees to pay \$75,000 (as adjusted herein) per year to the Vine Trail Coalition (or a qualified successor organization approved by County) for the procurement, as available, of general liability and pollution liability coverage to insure against claims from users of the Vine Trail resulting or arising from Grantor's and/or any of Grantor's contractor's or agent's activities on or about the Properties, the Easement Area, and/or the Vine Trail (including, without limitation, the operation and use of farm equipment and pesticide applications thereon). The foregoing amount will be (i) payable each year in a lump sum on the anniversary of County's first payment under this subparagraph B, (ii) adjusted annually for inflation based on the increase (if any) of the U.S. Department of Labor's Consumer Price Index for All Urban Consumers in the San Francisco/Oakland/San Jose geographic area (or successor index) in the immediately preceding twelve (12) months, and (iii) will continue until this Agreement is terminated. Any insurance purchased by the Vine Trail Coalition or its qualified successor with these funds shall name the Vine Trail Coalition (or its successor), County, Grantor (or successor), and all other grantors of Vine Trail easements held by County between Calistoga and Yountville as named insureds. The insurance required to be carried in this Paragraph 9B will be primary and non-contributory with any insurance carried by any of the named or additional insureds under such policy. County shall make the first payment to the Vine Trail Coalition within thirty (30) days of its acceptance of all easements necessary for the construction of a contiguous trail from Calistoga to St. Helena. In its sole discretion, County shall have the right to pre-pay any portion of the payments provided for in this subparagraph B and will thereafter be

relieved of its annual payment obligation for the corresponding number of years for which such pre-payment would substitute. Notwithstanding the foregoing, following the thirtieth (30th) anniversary of the Vine Trail's opening to the public within the easement area of the last Vine Trail easement granted to County between Calistoga and Yountville, the County may cease making the payments under this subparagraph B upon written notice to the other named insureds; provided that on receipt of such written notice, Grantor or Grantor's successors and assigns will have the right to terminate this Agreement in its sole discretion.

10. Indemnification.

- A. County or its successors and assigns shall defend, at its own expense, indemnify, and hold harmless Grantor and Grantor's successors and assigns and subsequent Property owners (collectively, the "Grantor Parties") from and against any and all liabilities, costs, losses, orders, liens, judicial penalties, claims, demands, damages, expenses, or causes of action or cases, including without limitation reasonable attorneys' fees (collectively "Losses"), arising out of the design, maintenance, or condition of the Easement Area. The Grantor Parties shall have no responsibility for the design, construction, use, operation, repair, or maintenance of the Easement Area, or warning of hazardous conditions on it, or the protection of the public or any third parties from risks relating to a condition of the Easement Area.
- B. County's obligations under this Paragraph 10 expressly exclude defending, indemnifying, and holding harmless a Grantor Party for any of the following:
 - i. Any Losses founded on or resulting from the active negligence, negligence per se, or willful or malicious conduct of a Grantor Party.
 - ii. Instances where permission to enter the Easement Area or either Property was granted to the injured person by a Grantor Party for consideration given by the injured person or by others on that person's behalf, other than any consideration given by County or the Vine Trail Coalition in consideration of this Easement Agreement.
 - iii. Injuries to any persons who are expressly invited onto either the Easement Area or Property by a Grantor Party rather than merely permitted to come upon the Easement Area or Property by a Grantor Party.
 - iv. The exclusions in subparagraphs (ii) and (iii) shall not apply to instances where a person was injured on either Property while using the Vine Trail to travel to or from either Property, even after receiving an express invitation or permission for consideration to do so, such as by paying a tasting fee.
- C. <u>Intent</u>. This section is intended to provide Grantor Parties with defense and indemnification against Losses where a defense against liability is available under Civil Code section 846 and/or Government Code section 831.4.

- D. County and Grantor, or their respective successors or assigns, shall notify the other party promptly in writing of any claim or assertion of Losses related to the entry or use of the Easement Area by members of the public. The parties shall cooperate with each other in the investigation, defense, and disposition of any claim arising out such entry or use, provided that nothing shall require either party to disclose any documents, records, or communications that are protected under the peer review privilege, attorney-client privilege, or other applicable privilege, or which are considered attorney work product. The indemnification provided in this Paragraph 10 shall survive the termination of this Agreement for the duration of all applicable statutes of limitation.
- 11. Public Visitor Recreational and Trail Immunities. Any permission given by Grantor for entry by public recreational visitors on or over the Easement Area is given only for recreational purposes as defined in Civil Code § 846, and the Grantor gives no assurance to public recreational visitors that such premises are safe for such purposes, nor confers upon the person to whom such permission has been granted the legal status of invitee or licensee to whom a duty of care is owed, nor assumes responsibility for or incurs any liability for any injury to person or property caused by any act of such person to whom permission has been granted except as otherwise provided in Section 846. It is the intent of this paragraph to preserve for the Grantor Parties any and all immunities provided for under Civil Code § 846, Government Code § 831.4, Public Resources Code § 5075.4, and under any other applicable laws or statutes, now or hereafter in effect, eliminating or limiting to the fullest extent permitted by law Grantor's liability for, or providing immunity from, claims against a Grantor Party by third parties. It is also the intent of this paragraph to preserve for County any and all immunities provided under Government Code Sections 831.4 and 831.7 and under any other applicable laws or statutes, now or hereafter in effect, eliminating or limiting County's liability for, or providing immunity from claims against County by third parties. County agrees to perform its obligations under Section 6 of this Agreement with the goal of reducing liability and preserving the immunities described above. This paragraph is not intended to, nor shall it be construed to, limit, affect, or restrict any rights of either Party or its officers, directors, agents, or employees to assert any claims against the other Party to which it may otherwise by entitled under this Agreement.

The parties are directed to Civil Code § 846.1, which authorizes an owner of an estate in real property, whether possessory or non-possessor, and public entities to seek reimbursement from the California Department of General Services for reasonable attorneys' fees incurred in defending a claim alleging an injury or damages on real property used for a recreational trail where the claim is dismissed by the plaintiff or court, or where the Grantor or Grantee prevails in the civil action.

12. Assignment of Rights. County has already assigned certain construction and other obligations to NVTA. County may further assign any of its construction, operation or maintenance obligations hereunder to the State of California, another public entity, or other qualified organization, provided the public entity or qualified organization covenants to perform such obligations consistent with this Agreement, with the prior

written consent of Grantor or its heirs, successors, or assigns, which consent will not be unreasonably conditioned or withheld. County may assign and transfer this Agreement and the Easement, and all rights and obligations with respect thereto, to the State of California, another public entity, or other qualified organization, with the prior written consent of Grantor or its heirs, successors, or assigns, which consent will not be unreasonably conditioned or withheld. An assignment as described in the immediately preceding sentence will only release County from its obligations under this Agreement from and after the date of the assignment and only if the transferee agrees, in writing, to be bound by the terms and conditions of this Agreement and expressly assumes the County's obligations under this Agreement. An assignment that complies with the foregoing restrictions will be effective upon the recording of a deed conveying the Easement to said transferee.

- 13. Run With the Land. The benefits and burdens of this Easement shall run with the title to the described properties of Grantor and County and shall inure to the benefit of and bind the parties hereto, and each of them, as well as their respective agents, heirs, assigns and successors in right, title or interest in or to all or any part of said properties at all times hereinafter.
- 14. **Temporary Construction Easement**. Grantor agrees to grant to NVTA a Temporary Construction Easement that is three feet wider on each side than the Easement Area depicted in <u>Exhibit B</u>, in a form substantially similar to the Temporary Construction Access Easement Agreement attached hereto as <u>Exhibit C</u>. The attached Temporary Construction Access Easement Agreement sets forth the timing and duration of Grantee's access to the Temporary Construction Easement, along with other terms and conditions governing the Temporary Construction Easement.
- 15. **Entire Agreement**. This Agreement together with the exhibits hereto, each of which are incorporated herein by this reference, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements with respect thereto.
- 16. **Notices**. Any notices required by this Agreement or correspondence between the parties shall be addressed as follows, unless the parties shall provide written notice of a change:

Jackson Family Investments III 425 AVIATION BLVD.
SANTA ROSA, CA 95403
ATTN: LEGAL DEPARTMENT
LEGAL.NOTICE@JFWMAIL.COM

GRANTOR:

COUNTY:

Public Works Director Napa County 1195 Third Street, Suite 101 Napa, CA 94559

With a copy to (which copy shall not constitute notice):

Clerk of the Board of Supervisors Napa County 1195 Third Street, Suite 303 Napa, CA 94559

Notice shall be delivered personally, including by messenger or courier, or by certified mail, return receipt requested, postage prepaid. Notices shall be deemed to have been duly given (a) if delivered personally, on the date of delivery; (b) if transmitted by certified mail, on the earlier of (i) the second (2nd) business day after the date of such mailing, or (ii) the date of receipt. The addresses and addressees may be changed by giving written notice of such change in the manner provided herein for giving notice. Unless and until such written notice is received, the last address and addressee as stated by written notice, or as provided herein if no written notice or change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

17. Interpretation.

- A. This Easement shall be interpreted under the laws of the State of California without regard to the conflicts or choice of law provisions thereof. Any ambiguities and questions of the validity of specific provisions shall be interpreted so as to give maximum effect to its intent to protect Grantor's reserved rights and uses, including the right to farm and to engage in agriculture, and its public access purpose.
- B. Unless specifically stated and attached to this Easement, references to specific authorities in this Easement shall be to the statute, rule, regulation, ordinance, or other legal provision that is in effect at the time this Easement becomes effective.
- C. No provision of this Easement shall constitute governmental approval of any improvements, construction, or other activities that may be permitted under this Easement.
- 18. **Severability**. If any term, provision, covenant, condition, or restriction of this Easement is held by a court of competent jurisdiction to be unlawful, invalid, void, unenforceable, or not effective, the remainder of this Easement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
- 19. **Recordation**. This Agreement evidencing the Easement shall be recorded in the official records of Napa County.
- 20. Third Party Beneficiaries. Except to the extent the Vine Trail Coalition is named for the sole purpose of receiving and subsequently procuring additional insurance as may be available, nothing under this Agreement is intended to create any rights or interests in any third parties.
- 21. Relocation Assistance and Real Property Acquisition Policies Acts. Grantor is donating the Easement for the purpose of facilitating completion of the Vine Trail, and

hereby voluntarily and knowingly waives any and all payments, compensation, appraisals, entitlements and benefits to which Grantor may be entitled under the State of California Uniform Relocation Assistance and Real Property Acquisition Policies Act (Gov. Code § 7260 et seq.) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) and any amendments thereto. It is agreed that the property conveyed by this Agreement is being donated to the County by the undersigned Grantor. Grantor, having initiated this donation, has been informed of the right to compensation for the property donated and hereby waives such right to compensation.

- 22. **Mandatory Non-binding Mediation**. If a dispute arises under this Agreement, the parties will endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of the American Arbitration Association ("AAA") or any other neutral organization agreed to by the parties. Mediation is mandatory before either party may have recourse in a court of law, except in the circumstances described in Paragraph 23 below.
- A. <u>Mediation Costs</u>. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.
- B. <u>Selection of Mediator</u>. A single mediator that is acceptable to both parties shall be used to mediate the claim. The mediator will be knowledgeable in public entity liability or real property rights, and may be selected from lists furnished by the American Arbitration Association (unless the parties mutually agree on another mediator). The parties shall endeavor to agree on a mediator within ten (10) business days after the date a party requests mediation, unless a longer period is mutually agreed to in writing by the Grantor and County. If the parties are unable to agree on a mediator within that ten-day period, or such other mutually agreed upon period, AAA or the other neutral organization administering the mediation will appoint a mediator who is a retired judge or other neutral with at least ten (10) years experience and who has the knowledge prescribed in the second sentence of this subpart B.
- C. <u>Conduct of Mediation Sessions</u>. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the claim, though the County's recommendation of settlement may be subject to the approval of the Board of Supervisors. Either party may have attorney(s), witnesses or expert(s) present. Either party may request a list of witnesses and notification whether attorney(s) will be present.

- D. <u>Mediation Results</u>. Any resultant agreements from mediation shall be documented in writing. Mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing by both parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.
- 23. <u>Injunctive Relief.</u> Paragraph 22 above notwithstanding, either party will have the right, without first proceeding to mediation hereunder, to seek injunctive relief from a court of competent jurisdiction in the event that the other party's conduct threatens imminent irreparable harm to the interests of the party seeking such relief, for which money damages are inadequate. The court will determine whether a bond or other security shall be required in order to obtain such relief.
- 24. <u>Authority</u>. Each person executing this Easement Agreement on behalf of a party hereto has all requisite consent, power and authority to execute this Easement Agreement on behalf of that party and any other agreements or instruments required hereunder and that party has all requisite consent, power, and authority to enter into and perform its obligations under this Easement Agreement and all other agreements and instruments entered into in connection herewith.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date this Agreement is executed below.

"GRANTOR"

JACKSON FAMILY INVESTMENTS III, LLC, a California limited liability company

By: TYLER J. COMSTOCK, aka Tyle

Its: SVP, FINANCE

"COUNTY"

NAPA COUNTY, a political subdivision of

the State of California

Alfreda PedrozaDIANE DILLON, Chair of the Board of

APPROVED AS TO FORM

4026

Date: 317 2021

APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS

Date: __12/15/20 20

Processed By

Deputy Clerk of the Board

ATTEST: Jose Luis Valdez Clerk of the Board of

Supervisors

SEAL AFFIXED

CALIFORNIA ACKNOWLEDGMENT	CIVIL CODE § 1189
A notary public or other officer completing this certificate to which this certificate is attached, and not the truthful	e verifies only the identity of the individual who signed the document Iness, accuracy, or validity of that document.
State of California]
County of SONOMU	_}
on <u>Deember 17th</u> 2016 before me, personally appeared <u>Tyler</u> (om Str	Audr M. Short, Notary Public Here Insert Name and Title of the Officer
personally appeared Tyler Comst	ock
· · · · · · · · · · · · · · · · · · ·	Name(s) of Signer(s)
to the within instrument and acknowledged to me	idence to be the person(s) whose name(s) is/are subscribed that he/she/they executed the same in his/her/their signature(s) on the instrument the person(s), or the entity ed the instrument.
AUDRI M. SHORT Notary Public - California Sonoma County Commission # 2307884 My Comm. Expires Oct 5, 2023	I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.
Place Notary Seal and/or Stamp Above	Signature A SUM Signature of Notary Public
_	OPTIONAL
	can deter alteration of the document or this form to an unintended document.
Description of Attached Document	
Title or Type of Document:	
Document Date:	Number of Pages:
Signer(s) Other Than Named Above:	
Capacity(ies) Claimed by Signer(s)	
Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
□ Partner - □ Limited □ General	□ Partner - □ Limited □ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conserva	

Signer is Representing: _

©2018 National Notary Association

Signer is Representing:

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 Napa} ss.

On March 19, 2021 before me, Greg S. Morgan, Notary Public, personally appeared Alfredo Pedroza, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature/

GREG S. MORGAN Commission #2309553 Notary Public – California

Napa County

My Commission Expires October 20, 2023

Work Phone: 707-299-1515

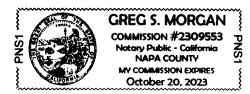


EXHIBIT A - 1

LEGAL DESCRIPTION

The land referred to in this report is situated in the unincorporated area of St. Helena, County of Napa, State of California, and is described as follows:

TRACT ONE:

PARCEL ONE:

All of Parcel A and a portion of Parcel C as both are shown on that certain map entitled, "Map of the Lands of Freemark Abbey, Inc., et al", filed March 23, 1973 in <u>Book 5 of Parcel Maps at page 8</u> in the office of the County Recorder of said Napa County, the combined parcel being more particularly described as follows:

BEGINNING at the most northerly corner of Parcel C, hereinabove referred to; thence along the northeasterly boundary of said Parcel C, South 39° 45′ East 180.73 feet; thence southwesterly along the northwesterly boundary of that certain property described in the Deed to Freemark Abbey Winery, a California Limited Partnership recorded September 14, 1999 under Series Number 1999-0029087 of Official Records of Napa County, South 52° 15′ 20″ West 548.01 feet to the most southerly corner of Parcel A, hereinabove referred to, which point is also on the easterly boundary of Parcel B as shown on the parcel map hereinabove referred to; thence northwesterly along the easterly boundary of said Parcel B, North 37° 44′ 20″ West 70.00 feet; thence North 7° 15′ 40″ East 28.28 feet; thence North 37° 44′ 20″ West 158.89 feet to the most northerly corner of said Parcel B; thence along the northwesterly boundary of said Parcel B, South 51° 24′ 40″ West 183.69 feet to a point on the northeasterly boundary of State Highway 29 and 128; thence along said State Highway, North 32° 45′ West 112.86 feet; thence North 17° 13′ West 9.50 feet to the most westerly corner of said Parcel A; thence along the northerly boundary of said Parcel A, the following courses: North 77° 37′ 30″ East 174.48 feet; thence North 65° 00′ East 187.00 feet; thence South 40° 00′ East 20.00 feet; thence North 60° 30′ East 335.00 feet to the point of beginning of this description.

APN 022-130-023

PARCEL TWO:

Non-exclusive easements as granted in the document by and between Markham Vineyards and Freemark Abbey Winery, et al", recorded August 28, 1990 in <u>Book 1763 at page 774, Series Number 1990-0024950</u> of Official Records of Napa County, amendment recorded thereto May 27, 1994 under Series Number <u>1994-0017853</u> of Official Records of Napa County.

EXHIBIT A - 2

LEGAL DESCRIPTION

TRACT TWO: PARCEL ONE:

A portion of Parcel C as the same is shown on that certain map entitled, "Map of the Lands of Freemark Abbey, Inc., et al", filed March 23, 1973 in <u>Book 5 of Parcel Maps at page 8</u> in the office of the County Recorder of said Napa County, more particularly described as follows:

BEGINNING at the most southerly corner of Parcel C, hereinabove referred to; thence northwesterly along the southwesterly boundary of said Parcel C. North 34° 04' West 376.42 feet to the southerly corner of Parcel B as shown on the map hereinabove referred to; thence northeasterly along the southeasterly boundary of said Parcel B. North 52° 15' 40" East 38.26 feet to the most westerly corner of Parcel 1, as the same is shown on that certain parcel map filed for record on November 8, 1974 in Book 6 of Parcel Maps at page 66 in the office of the County Recorder of said Napa County; thence southeasterly along the southwesterly boundary of said Parcel 1 South 37°

44' 20" East 151.66 feet to the most southerly corner of said Parcel 1; thence northeasterly along the southeasterly boundary of said Parcel 1, North 52° 15' 40" East 150.00 feet to the most easterly corner of said Parcel 1; thence northwesterly along the northeasterly boundary of said Parcel 1 and the northeasterly boundary of Parcel B hereinabove referred to North 37° 44' 20" West 216.66 feet to the most southerly corner of Parcel A, as said Parcel A is shown on the Parcel Map filed in Book 5 of Parcel Maps at page 8, first hereinabove referred to; thence northeasterly along the southeasterly boundary of said Parcel A and the southeasterly boundary of that certain property described in the Deed to Freemark Abbey Winery, a California limited partnership recorded September 14, 1999 under Series Number 1999-0029086 of Official Records of Napa County, North 52° 15' 20" East 548.01 feet to the northeast corner of said Freemark Abbey property and a point on the easterly boundary of said Parcel hereinabove referred to; thence southeasterly and southwesterly along the easterly boundary of said Parcel C, the following courses: South 39° 45' East 169.73 feet; thence South 50° 15' West 200.00 feet; thence South 39° 45' East 244.00 feet; thence South 50° 15' West 573.38 feet to the point of beginning of this description.

EXCEPTING THEREFROM that portion granted to the State of California in the document recorded October 19, 2005 as Series Number 2005-0042647 of Official Records of Napa County.

APN 022-130-024

PARCEL TWO:

Non-exclusive easements as granted in the document by and between Markham Vineyards and Freemark Abbey Winery, et al", recorded August 28, 1990 in <u>Book 1763 at page 774, Series Number 1990-0024950</u> of Official Records of Napa County, amendment recorded thereto May 27, 1994 under Series Number <u>1994-0017853</u> of Official Records of Napa County.

EXHIBIT B

EASEMENT AREA LEGAL DESCRIPTION AND PLAT

(Attached)

#5171 Reach 2B (Version 3) 09-04-2020 022-130-023 & 024 Jackson Family

Exhibit B

A Public Trail Easement, in, on, over, across, under, and through a portion of the Lands of Jackson Family Investments III, LLC, a Delaware limited liability company, as described in the deed recorded April 5, 2007 as Series Number 2007-0011572, Napa County Records, State of California, said portion being that portion of the said Jackson Family Investments III, LLC, within the following described strip of land:

A strip of land varying in width being initially of the uniform width of 14.00 feet wide lying 7.00 feet on each side of the following described reference line:

Beginning at the point that bears South 34° 25' 32" East 391.10 feet from a 1 inch Iron Pipe with Nail & Tag R.C.E. 12104 on the east side of State Highway 29 approximately 400 feet north of Lodi Lane; thence North 33° 44' 54" West 163.12 feet to the beginning of a curve concave to the southwest having a radius of 90.00 feet; thence 20.90 feet along said curve through a central angle of 13° 18' 30" to the beginning of a reverse curve concave to the northeast having a radius of 90.00 feet; thence 21.43 feet along said curve through a central angle of 13° 38' 29"; thence North 33° 24' 54" West 194.40 feet; thence North 34° 37' 29" West 58.99 feet; thence North 33° 25' 07" West 53.27 feet; thence North 32° 22' 55" West 167.96 feet; thence North 2° 39' 44" West 24.88 feet; thence North 31° 32' 25" West 57.14 feet to the beginning of a curve concave to the east having a radius of 50.00 feet; thence 18.18 feet along said curve through a central angle of 20° 49' 57"; thence changing the width to be 17.00 feet lying 7.00 feet left and 10.00 feet right of said reference line; thence continuing along said 50.00-foot curve 1.00 foot along said curve through a central angle of 1° 08' 45"; thence North 9° 33' 44" West 17.15 feet to the beginning of a curve concave to the southwest having a radius of 100.00 feet; thence 52.88 feet along said curve through a central angle of 30° 17' 44" to the beginning of a reverse curve concave to the northeast having a radius of 100.00 feet; thence 28.56 feet along said curve through a central angle of 16° 21' 46"; thence North 23° 29' 42" West 35.67 feet; thence changing the width to be 14.00 feet lying 7.00 feet on each side of said reference line; thence North 23° 29' 42" West 34.62 feet; thence North 18° 50' 54" West 72.26 feet to the beginning of a curve concave to the southwest having a radius of 800.00 feet; thence 85.11 feet along said curve through a central angle of 6° 05' 43"; thence North 24° 56' 38" West 55.42 feet to the beginning of a curve concave to the northeast having a radius of 100.00 feet; thence 22.24 feet along said curve through a central angle of 12° 44' 40" to the beginning of a reverse curve concave to the southwest having a radius of 90.00 feet; thence 32.31 feet along said curve through a central angle of 20° 34' 16" to a point that bears North 47° 41' 02" West 54.12 from a 1 inch iron pipe with cap "CALIF DOT"; thence North 32° 46' 13" West 41.53 feet to the beginning of a curve concave to the east having a radius of 12.00 feet; thence 15.11 feet along said curve through a central angle of 72° 09' 38" to the beginning of a reverse curve concave to the west having a radius of 25,00 feet; thence 30.41 feet along said curve through a central angle of 69° 41' 40"; thence North 30° 18' 15" West 50.65 feet to the beginning of a curve concave to the southwest having a radius of 50.00 feet; thence 39.94 feet along said curve through a central angle of 45° 46' 03" to the beginning of a reverse curve concave to the northeast having a radius of 50.00 feet; thence 33.78 feet along said curve through a central angle of 38° 42' 20"; thence North 37° 21' 58" West 87,67 feet to the beginning of a curve concave to the southwest having a radius of #5171 Reach 2B (Version 3) 09-04-2020 022-130-023 & 024 Jackson Family

200.00 feet; thence 48.60 feet along said curve through a central angle of 13° 55' 26" to the beginning of a reverse curve concave to the northeast having a radius of 200.00 feet; thence 11.46 feet along said curve through a central angle of 3° 17' 01"; thence changing the width to be 17.00 feet lying 7.00 feet left and 10.00 feet right of said reference line; thence continuing along said 200.00-foot radius curve 21.23 feet through a central angle of 6° 04' 59" to a point that bears South 9° 57' 05" East 14.09 feet from a rebar with cap LS 4510 to the beginning of a curve concave to the southwest having a radius of 1509.00 feet; thence 159.35 feet along said curve through a central angle of 6° 03' 01"; thence North 47° 58' 27" West 87.39 feet; thence North 49° 42' 11" West 41.91 feet; thence changing the width to be 19.00 feet lying 7.00 feet left and 12.00 feet right of said reference line; thence continuing North 49° 42' 11" West 96.40 feet; to the beginning of a curve concave to the northeast having a radius of 200.00 feet; thence 20.00 feet along said curve through a central angle of 5° 43' 46" to the beginning of a reverse curve concave to the southwest having a radius of 200.00 feet; thence 30.46 feet along said curve through a central angle of 8° 43' 37"; thence North 52° 42' 02" West 126.35 feet to the beginning of a curve concave to the northeast having a radius of 35.00 feet; thence 1.00 foot along said curve through a central angle of 1° 38' 13"; thence changing the width to be 14.00 feet lying 7.00 feet on each side of said reference line; thence continuing along said 35.00-foot curve 35.53 feet along said curve through a central angle of 58° 10' 11" to the beginning of a reverse curve concave to the southeast having a radius of 25.00 feet; thence 46.13 feet along said curve through a central angle of 105° 43' 50" to the beginning of a reverse curve concave to the north having a radius of 45.00 feet; thence 38.07 feet along said curve through a central angle of 48° 28' 12"; thence North 50° 09' 15" West 146.26 feet to the beginning of a curve concave to the northeast having a radius of 42.00 feet; thence 18.39 feet along said curve through a central angle of 25° 05' 13" to the beginning of a reverse curve concave to the southwest having a radius of 100.00 feet; thence 55.26 feet along said curve through a central angle of 31° 39' 51"; thence North 56° 43' 53" West 66.32 feet to the beginning of a curve concave to the northeast having a radius of 500.00 feet; thence 51.58 feet along said curve through a central angle of 5° 54' 38"; thence North 50° 49' 15" West 154.23 feet; thence changing the width to be 17.00 feet lying 7.00 feet left and 10.00 feet right of said reference line; thence continuing North 50° 49' 15" West 12.23 feet; thence North 55° 24' 06" West 107.60 feet; thence North 43° 58' 14" West 33.73 feet"; thence changing the width to be 14.00 feet lying 7.00 feet on each side of said reference line; thence continuing North 43° 58' 14" West 50.13 feet; thence North 45° 05' 25" West 30.01 feet to a point that bears North 46° 40' 48" West 164.58 feet from a 1 inch iron pipe with cap "CALIF DOT" to the Point of Terminus.

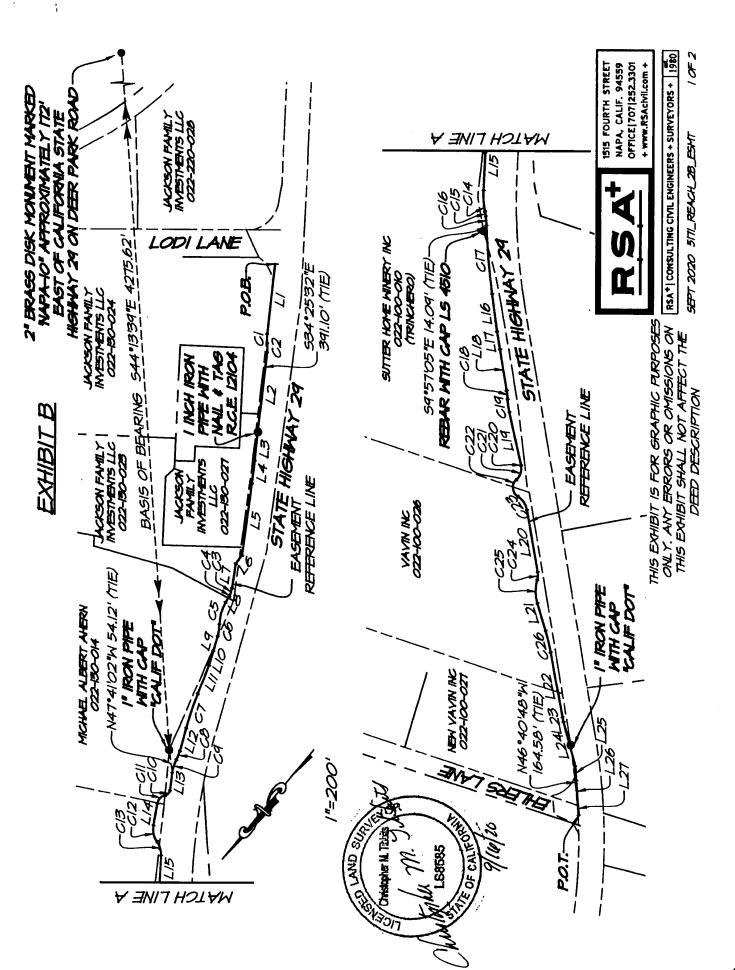
The sidelines of easement where widths change shall occur at right angles. The sidelines at Point of Beginning, Angle Points, and Point of Terminus shall be extended or shortened to intersect the adjoining sidelines or parcel boundaries.

Basis of Bearing: The bearing between the 2" Brass disk monument marked 'Napa-10" found approximately 172' East of California State Highway 29 on Deer Park Road and 1" Iron Pipe with cap "CALIF DOT" Measuring South 44° 13' 39" East.

End Description

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EXHIBIT C

TEMPORARY CONSTRUCTION ACCESS EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION ACCESS EASEMENT AGREEMENT (this "Agreement") is entered into this ___ day of _______, 2020, by JACKSON FAMILY INVESTMENTS III, LLC, a California limited liability company, whose legal address is 421 Aviation Blvd. Santa Rosa, CA 95403 (the "Grantor"), and the NAPA VALLEY TRANSPORTATION AUTHORITY, a joint powers authority in the County of Napa, State of California, whose address is 625 Burnell Street, Napa, CA 94559 ("NVTA") (collectively, the "Parties").

For a valuable consideration set forth in the Easement Agreement defined below, the receipt and sufficiency of which is acknowledged, and the further consideration of the covenants and agreements set forth below, Grantor hereby conveys, transfers, and delivers to the NVTA, its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successor and assigns (all referred to as only "Grantee"), a non-exclusive Temporary Construction Access Easement (the "Temporary Construction Easement") that is three feet wider than the Easement Area depicted in Exhibit B of that Easement Agreement, a copy of which is attached and incorporated by this reference (the "Temporary Easement Property"), to facilitate Grantee's construction of public bike and pedestrian pathway/trail and other related improvements in the vicinity of the Temporary Easement Property (the "Project").

This Temporary Construction Easement is granted in accordance with, and subject to, the following terms, conditions, requirements, and limitations:

- 1. Reference is made to that Trail Easement Agreement dated _______, 2020 (the "Easement Agreement") and entered into by and between Grantor and Napa County, a political subdivision of the State of California ("County"). Pursuant to NVTA Agreement 19-12 and County Agreement No. 190311, as amended, NVTA has committed to completing environmental review, obtaining rights of entry and construction easements, and procuring design and construction services. Consequently, and in addition to the covenants and conditions prescribed below, NVTA hereby assumes those obligations of County in the Easement Agreement governing the initial construction of the Project (referred to as the "Vine Trail" in in that Easement Agreement) and agrees to adhere to the standards of care prescribed in such Easement Agreement as such standards relate to the initial construction of the Project.
- 2. The Temporary Construction Easement is granted for vehicular and pedestrian ingress and egress to and from the Temporary Easement Property and for Grantee's use to do all things reasonably necessary to construct and install the Project including, but not limited to, the transport, stockpiling and storage of construction materials, soil, equipment and vehicles within the boundaries of the Temporary Easement Property; provided that Grantee shall to the extent reasonably possible store overnight equipment and vehicles at nearby off-site staging areas to allow for Grantor's agricultural use of Grantor's lands. Upon expiration of the Temporary Construction Easement, the Grantee, at its sole cost

Exhibit C to Trail Easement Agreement (Temporary Construction Access Easement Agreement - 1 of 4)

and expense, shall restore the Temporary Easement Property to substantially the same condition it was in prior to Grantee's use. Grantee shall not leave any rubbish or debris on or about the Temporary Easement Property. The term of this Agreement shall begin five days after the date written notice is mailed by U.S. mail to Grantor by NVTA and shall extend therefrom for twenty-four months or until the Project has been completed, whichever first occurs. NVTA may extend the Temporary Construction Easement for two (2) additional six (6) month periods by giving written notice to Grantor on or before the expiration of the Temporary Construction Easement.

- 3. Upon termination of this Agreement, all covenants in this instrument are released (other than NVTA's restoration obligations set forth in Paragraph 2 and NVTA's indemnification obligations set forth in Paragraph 4, all of which shall survive the expiration or termination of this Agreement) and the Temporary Easement Property shall be considered free and clear of any restriction or any right or privilege attaching to the grant of the Temporary Construction Easement set forth in this Agreement. Upon request by Grantor, NVTA shall execute any documents reasonably requested by Grantor to confirm the termination of this Agreement.
- The Temporary Construction Easement shall allow NVTA and its contractors, 4. consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successors, and assigns thereof to use the Temporary Easement Property during the construction of the Project. Grantee shall use the Temporary Easement Property solely for the purpose described in Paragraph 2 and for no other purpose. In no event may any use of the Temporary Easement Property by Grantee violate any applicable law (including without limitation, any hazardous materials laws), rule or regulation relating to the Temporary Easement Property or materially impact Grantor's normal business operations on the Temporary Easement Property or any adjacent property. To the extent allowed by law, NVTA shall indemnify and hold the Grantor harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the acts or omissions of NVTA or its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successors, or assigns thereof (including, without limitation, hazardous materials brought onto the Temporary Easement Property), except to the extent such claims or damages may be due to or caused by the active negligence or willful misconduct of Grantor or its employees, contractors or agents.
- 5. Prior to commencement of the Project, NVTA shall install construction fencing, reasonably acceptable in design and location to Grantor, separating the Temporary Easement Property from the remainder of Grantor's lands. Such construction fencing shall be constructed of netting and shall be designed and installed in a manner such that it can be moved readily to accommodate any farming and agricultural operations of Grantor occurring in the immediate vicinity. NVTA shall maintain said construction fencing in good condition and repair during completion of the Project. Grantor shall have the right to use the Temporary Easement Property in connection with the above-described agricultural operations at all reasonable times, provided such use does not unreasonably impede or impair NVTA's Project construction activities occurring therein or otherwise endanger or risk harm to NVTA's contractors, subcontractors, agents, or representatives engage in such construction activities. The parties will cooperate with each other in good faith to accommodate any such Grantor operations requiring use of the Temporary Construction Property.

Exhibit C to Trail Easement Agreement (Temporary Construction Access Easement Agreement - 2 of 4)

- 6. At no time during the term of this Agreement, and at no time during construction of the "Vine Trail" (as that term is defined in the Easement Agreement), shall Grantee stockpile, store or otherwise place construction, testing or staging materials, soil, equipment, vehicles or any other items relating to the Project on any part or portion of the lands of Grantor except within the boundaries of the Temporary Easement Property.
- 7. Grantor represents that it is the fee owner of the Temporary Easement Property and that it has the authority to grant this Temporary Construction Easement to NVTA.
- 8. Grantor reserves all rights attendant to its ownership of the Temporary Easement Property, including but not limited to the use and enjoyment of the Temporary Easement Property for all purposes not inconsistent with the terms and conditions of this Agreement.
- 9. As a condition of this Agreement and of Grantor's grant of the Temporary Construction Easement hereunder, Grantee, shall, at their respective cost and expense, insure their activities on the Temporary Construction Easement area, and each shall obtain, keep in force, and maintain at all times during the term of this easement: (a) Commercial Form General Liability Insurance with an insurance carrier qualified to do business in the State of California and rated at least [A], on an occurrence basis and with per-occurrence and general aggregate limits of liability at \$2,000,000 and \$4,000,000 respectively, and (b) Workers' Compensation Insurance in accordance with California law and including Employer's Liability Coverage with commercially reasonable limits of liability. All insurance policies required under this Paragraph 9 will name Grantor as an additional insured and such policies will be primary and non-contributory with any insurance carried by Grantor. Proof of the foregoing insurance will be provided to Grantor promptly on the reasonable request of Grantor.
- 10. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to Grantor:	If to NVTA:
Jackson Family Investments III	Napa Valley Transportation Authority Attn: Executive Director
	625 Burnell Street,
	Napa, CA 94559

11. Except for the Easement Agreement, this Agreement represents the entire agreement between the Grantor and NVTA as relates to the Temporary Construction Easement and supersedes all prior negotiations, representations, or agreements, either written or oral. Any amendments to this Agreement must be in writing and signed by both the Executive Director and the Grantor.

Exhibit C to Trail Easement Agreement (Temporary Construction Access Easement Agreement - 3 of 4)

- 12. Each and every term, condition, or covenant of this Agreement is subject to and shall be construed in accordance with the provisions of California law. Venue for any action arising out of this Agreement shall be in the District Court in the County of Napa, California.
- 13. The benefits and burdens of the Temporary Construction Easement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- 14. This Agreement shall not be recorded, but shall nevertheless become effective upon full execution by all parties and delivery of same to the NVTA.

[SIGNATURE PAGE TO FOLLOW]

END OF DOCUMENT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

GRANTOR:
JACKSON FAMILY INVESTMENTS III, LLC, a California limited liability company
By: Its:
GRANTEE:
Napa Valley Transportation Authority, Napa
By:
Catherine Miller, Executive Director, Authorized pursuant to Resolution No.

2021-0012019

Recorded Official Records County of Napa JOHN TUTEUR Assessor-Recorder-Co.

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Page 1 of 25

REC FEE

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Jose Luis Valdez Clerk of the Napa County Board of Supervisors 1195 Third Street, Room 310 Napa, California 94559

Exempt from recording fees: Gov. Code § 6103 and § 27383

Exempt from documentary transfer tax:

Rev & Tax Code § 11922

Assessor's Parcel #(s): 022-220-028

#301987-CR

Space above this line reserved for County Recorder's use

TRAIL EASEMENT AGREEMENT

This TRAIL EASEMENT AGREEMENT (the "Agreement") is made by Jackson Family Investments III, LLC, a California limited liability company ("Grantor"), and Napa County, a political subdivision of the State of California (hereinafter referred to as ("County" or "Grantee"), with an effective possession date of AFRIL IL., 2021.

Recitals

WHEREAS, the County supports creating recreational trails for public use, including but not limited to a 47-mile walking and biking trail system to physically, artistically, and culturally connect the entire Napa Valley—from Vallejo to Calistoga (the "Vine Trail");

WHEREAS, Grantor is the owner of the property identified as Napa County Assessor's Parcel No. 022-220-028 and more fully described in <u>Exhibit A</u> (the "*Property*"), which is incorporated by reference, and located in the County of Napa, State of California:

WHEREAS, Grantor is discussing the grant to PG&E of an easement over the Property for the purpose of installing a natural gas pipeline (the "PG&E Easement"), and Grantor has agreed to grant Grantee a surface-level easement within the PG&E Easement to facilitate completion of the Vine Trail between Calistoga and Yountville;

WHEREAS, the Napa Valley Vine Trail Coalition, a 501(c) non-profit corporation, ("Vine Trail Coalition") is dedicated to facilitating and assisting in the funding of the Vine Trail;

WHEREAS, pursuant to County Agreement No. 190311 and Napa Valley Transportation Authority ("NVTA") Agreement No. 19-12, as amended, NVTA has committed to completing environmental review, obtaining rights of entry and

construction easements, and procuring design and construction services, which activities will require a Temporary Construction Easement in the form attached hereto as <u>Exhibit</u> <u>C</u>;

WHEREAS, during the environmental review, all alternative alignments of the Vine Trail will be studied and considered, and this Agreement will not influence the environmental assessment of the Vine Trail including the need for the project and the selection of the location of the project; and

WHEREAS, County is the public entity best situated to receive the easement for that portion of the Vine Trail in the unincorporated area from Calistoga to Yountville;

NOW, THEREFORE, Grantor and County hereby agree as follows:

- 1. **Recitals.** The foregoing recitals are incorporated into this Agreement.
- 2. Trail Easement. Subject to the terms of this Agreement, Grantor grants County a non-exclusive easement (the "Easement") on, over, and across a strip of land located on the Property and legally described and depicted in Exhibit B attached hereto and incorporated herein by this reference (the "Easement Area"), for the purpose of using the Easement Area to design, install, repair, improve, and maintain a paved and/or gravel trail, related drainage improvements, any and all utility lines and fixtures, including for utilities such as water, lighting, emergency telephone call boxes, or other telecommunications, and other improvements, for the use and benefit of public users for pedestrian or bicycle use of the Vine Trail, all as provided in, and subject to the terms of, this Agreement. County shall cause all improvements to be designed and installed in accordance with all applicable codes and regulations. The Easement granted herein is made by Grantor subject to all matters of record and any and all matters that would be disclosed by an accurate survey of the Property and/or the Easement Area.
- 3. Consideration. The undersigned Grantor acknowledges receipt of adequate consideration for Grantor's grant of the Easement herein, which includes the benefit of having the County construct a trail and other improvements that will enhance the Property.
- 4. **Termination**. On the occurrence of any of the events described in subparagraphs A through E below, Grantor may then or thereafter notify County of its intent to terminate the Easement and this Agreement on ninety (90) days notice (the "Notice Period"). Following such notice, if the condition giving rise to the event is not cured or reasonable efforts to cure are not commenced within that Notice Period (and cure completed within a reasonable period of time thereafter), Grantor may terminate the Easement and this Agreement. On termination of this Agreement and the Easement, County will file a quitclaim to return the Easement Area to Grantor or Grantor's heirs, successors, or assigns after complying with all legal requirements for the vacation of an easement.

- A. If, after the initial construction of the Vine Trail over the Easement Area, the Easement is not, at any time in the future, used by the general public as a pedestrian and bicycle trail for a continuous twelve (12) month period, and such non-use continues through the Notice Period; provided that closure of, or cessation of use upon, the Easement Area at times for repairs, maintenance, reconstruction, or other improvement, due to acts of God or nature, or other causes beyond the reasonable control of County, shall not be deemed abandonment nor count towards said twelve (12) month period;
- B. If this Agreement is for an Easement in the unincorporated area between Calistoga and St. Helena, if any portion of the Vine Trail from Calistoga to St. Helena is not substantially constructed by December 31, 2031;
 - C. County breaches any of Paragraphs 6, 9, 10, or 12 of this Agreement;
- D. If, following the thirtieth (30th) anniversary of the Vine Trail opening for public use within the easement area of the last easement granted to County between Calistoga and St. Helena, the County ceases making annual insurance payments pursuant to Paragraph 9B; or
- E. If as of August 19, 2027, the Vine Trail is not completed within the Easement and/or the final alignment of the Vine Trail (whether or not then constructed) does not or will not cross the either Property through the Easement.
- 5. Restrictions on Use. Subject to Grantor's retained rights of use and access referenced in Paragraph 7 (Grantor's Use of the Easement Area) below, no motorized vehicles (including, without limitation, electric or motorized scooters) shall be permitted to use the Easement Area, save and except for emergency, public safety vehicles (police, fire and ambulance services), normal construction and maintenance vehicles, and motorized wheelchairs or other mobility devices for use by disabled users of the trail. Electric bicycles, as defined in Section 312.5(a) of the California Vehicle Code, will be permitted in the Easement Area in accordance with California state law and/or local ordinance.
- 6. **Maintenance**. County shall operate, repair, and maintain the Easement Area and the trail located therein in good condition and repair and in a good and workman-like manner including, without limitation, keeping it free of graffiti and trash. County or its designee will in good faith take reasonable steps to resolve any damage or maintenance issue on the Easement Area that Grantor brings to the County's attention.

7. Grantor's Use of the Easement Area; Signage; and Fencing.

A. <u>Grantor's Use of the Easement Area.</u> The grant of this Easement shall not restrict in any way (i) Property ingress and egress across the Easement Area; or (ii) any and all lawful operations on Grantor's Property outside the Easement Area. Without limiting the foregoing, Grantor may use the Easement Area as reasonably necessary to carry out agricultural operations on the Property, including but not limited to, for access

and turnarounds for farm vehicles and equipment. The Parties acknowledge and agree that the Property is currently developed with and zoned for commercial uses and that Grantor's pending application to County (#P19-00038) proposes development and activities that are consistent with the Easement. Nothing in this Agreement shall be construed to require that County approve Grantor's pending application. Subject to and without waiving any rights under Paragraph 10 (Indemnity), and without assuming an affirmative obligation to do so, Grantor, or Grantor's heirs, successors, and assigns, may at any time temporarily block public access to the Easement Area when, in their sole judgment, they determine that it is appropriate to do so in accordance with reasonable agricultural practices or if they are engaged in activities that pose a threat to the health or safety of the users of the Easement Area. Grantor shall be entitled to grant additional easements or other rights with respect to the Easement Area (including, without limitation, underground or overhead utility, cable or other similar easements) as long as the same shall not materially interfere with the County's use of the Easement granted under this Agreement.

- B. <u>Signage</u>. County will post and maintain trail signs in the Easement Area warning users of the Vine Trail that their use is at their own risk, that agricultural operations, including spraying, discing/plowing, burning and other operations are ongoing, that users must yield to farming vehicles and equipment on or adjacent to the trail, and must obey all laws at all times while using the trail.
- C. <u>Fencing</u>. The project will include NVTA's installation of a temporary construction fence, as described in <u>Exhibit C</u>, to separate construction activity from commercial and agricultural operations on the Property. The temporary construction fence will be removed by NVTA after construction is complete.

8. **Representations**. Grantor hereby represents to County that:

- A. The Easement Area is, as of the date this Agreement is executed, subject to a deed of trust encumbrance, and Grantor agrees that it will use commercially reasonable efforts to obtain a subordination agreement from the beneficiary of such deed of trust encumbrance.
- B. Grantor has duly authorized the granting of the Easement provided hereby and execution and delivery of this Agreement.
- C. To Grantor's knowledge, as of the date this Agreement is executed, there are no off-record agreements between Grantor and any party that would prevent the use of the Easement Area for the purposes provided in this Agreement.
- D. To Grantor's knowledge, (i) other than any PG&E natural gas lines and the historical and ongoing use of agricultural pesticides, herbicides and other agricultural substances and/or treatments customarily employed in Grantor's viticultural practices, the Easement Area does not contain hazardous or toxic substances that are in material violation of applicable hazardous materials laws, and (ii) Grantor has not received any

written notice of a violation of applicable hazardous materials laws with respect to the Easement Area.

E. For purposes of this Agreement, the term "Grantor's knowledge" means, as of the date this Agreement is executed, the actual knowledge of Geoff Scott without duty of inquiry or investigation.

9. Insurance and Defense.

- A. Condition of the Trail. Consistent with the County's defense and indemnification obligations in Paragraph 10, prior to any entry on the Property and continuing through the opening of the Vine Trail for public use in the Easement Area, and continuously thereafter, County shall at all times maintain in full force and effect property damage and comprehensive general liability insurance coverage with an insurance carrier qualified to do business in the State of California to insure against claims for property damage and personal injury (including death) within the Easement Area brought by a user of the Vine Trail arising out of the condition thereof, with limits of at least \$1,000,000 for property damage claims per occurrence and \$1,000,000 for personal injury or death claims per occurrence (with aggregate limits double each of those respective amounts), subject to whatever underlying self insurance County elects to maintain, as set forth in a letter from the County's risk/insurance manager to Grantor.
- В. Insurance for Agricultural Activities. In addition to the above insurance and in consideration of this Agreement and all other Vine Trail easements granted to County between Calistoga and Yountville, County agrees to pay \$75,000 (as adjusted herein) per year to the Vine Trail Coalition (or a qualified successor organization approved by County) for the procurement, as available, of general liability and pollution liability coverage to insure against claims from users of the Vine Trail resulting or arising from Grantor's and/or any of Grantor's contractor's or agent's activities on or about the Property, the Easement Area, and/or the Vine Trail (including, without limitation, the operation and use of farm equipment and pesticide applications thereon). The foregoing amount will be (i) payable each year in a lump sum on the anniversary of County's first payment under this subparagraph B, (ii) adjusted annually for inflation based on the increase (if any) of the U.S. Department of Labor's Consumer Price Index for All Urban Consumers in the San Francisco/Oakland/San Jose geographic area (or successor index) in the immediately preceding twelve (12) months, and (iii) will continue until this Agreement is terminated. Any insurance purchased by the Vine Trail Coalition or its qualified successor with these funds shall name the Vine Trail Coalition (or its successor), County, Grantor (or successor), and all other grantors of Vine Trail easements held by County between Calistoga and Yountville as named insureds. The insurance required to be carried in this Paragraph 9B will be primary and non-contributory with any insurance carried by any of the named or additional insureds under such policy. County shall make the first payment to the Vine Trail Coalition within thirty (30) days of its acceptance of all easements necessary for the construction of a contiguous trail from Calistoga to St. Helena. In its sole discretion, County shall have the right to pre-pay any portion of the payments provided for in this subparagraph B and will thereafter be

relieved of its annual payment obligation for the corresponding number of years for which such pre-payment would substitute. Notwithstanding the foregoing, following the thirtieth (30th) anniversary of the Vine Trail's opening to the public within the easement area of the last Vine Trail easement granted to County between Calistoga and Yountville, the County may cease making the payments under this subparagraph B upon written notice to the other named insureds; provided that on receipt of such written notice, Grantor or Grantor's successors and assigns will have the right to terminate this Agreement in its sole discretion.

10. Indemnification.

- A. County or its successors and assigns shall defend, at its own expense, indemnify, and hold harmless Grantor and Grantor's successors and assigns and subsequent Property owners (collectively, the "Grantor Parties") from and against any and all liabilities, costs, losses, orders, liens, judicial penalties, claims, demands, damages, expenses, or causes of action or cases, including without limitation reasonable attorneys' fees (collectively "Losses"), arising out of the design, maintenance, or condition of the Easement Area. The Grantor Parties shall have no responsibility for the design, construction, use, operation, repair, or maintenance of the Easement Area, or warning of hazardous conditions on it, or the protection of the public or any third parties from risks relating to a condition of the Easement Area.
- B. County's obligations under this Paragraph 10 expressly exclude defending, indemnifying, and holding harmless a Grantor Party for any of the following:
 - i. Any Losses founded on or resulting from the active negligence, negligence per se, or willful or malicious conduct of a Grantor Party.
 - ii. Instances where permission to enter the Easement Area or Property was granted to the injured person by a Grantor Party for consideration given by the injured person or by others on that person's behalf, other than any consideration given by County or the Vine Trail Coalition in consideration of this Easement Agreement.
 - iii. Injuries to any persons who are expressly invited onto either the Easement Area or Property by a Grantor Party rather than merely permitted to come upon the Easement Area or Property by a Grantor Party.
 - iv. The exclusions in subparagraphs (ii) and (iii) shall not apply to instances where a person was injured on the Property while using the Vine Trail to travel to or from the Property, even after receiving an express invitation or permission for consideration to do so, such as by paying a tasting fee.
- C. <u>Intent</u>. This section is intended to provide Grantor Parties with defense and indemnification against Losses where a defense against liability is available under Civil Code section 846 and/or Government Code section 831.4.

- D. County and Grantor, or their respective successors or assigns, shall notify the other party promptly in writing of any claim or assertion of Losses related to the entry or use of the Easement Area by members of the public. The parties shall cooperate with each other in the investigation, defense, and disposition of any claim arising out such entry or use, provided that nothing shall require either party to disclose any documents, records, or communications that are protected under the peer review privilege, attorney-client privilege, or other applicable privilege, or which are considered attorney work product. The indemnification provided in this Paragraph 10 shall survive the termination of this Agreement for the duration of all applicable statutes of limitation.
- 11. Public Visitor Recreational and Trail Immunities. Any permission given by Grantor for entry by public recreational visitors on or over the Easement Area is given only for recreational purposes as defined in Civil Code § 846, and the Grantor gives no assurance to public recreational visitors that such premises are safe for such purposes, nor confers upon the person to whom such permission has been granted the legal status of invitee or licensee to whom a duty of care is owed, nor assumes responsibility for or incurs any liability for any injury to person or property caused by any act of such person to whom permission has been granted except as otherwise provided in Section 846. It is the intent of this paragraph to preserve for the Grantor Parties any and all immunities provided for under Civil Code § 846, Government Code § 831.4, Public Resources Code § 5075.4, and under any other applicable laws or statutes, now or hereafter in effect, eliminating or limiting to the fullest extent permitted by law Grantor's liability for, or providing immunity from, claims against a Grantor Party by third parties. It is also the intent of this paragraph to preserve for County any and all immunities provided under Government Code Sections 831.4 and 831.7 and under any other applicable laws or statutes, now or hereafter in effect, eliminating or limiting County's liability for, or providing immunity from claims against County by third parties. County agrees to perform its obligations under Section 6 of this Agreement with the goal of reducing liability and preserving the immunities described above. This paragraph is not intended to, nor shall it be construed to, limit, affect, or restrict any rights of either Party or its officers, directors, agents, or employees to assert any claims against the other Party to which it may otherwise by entitled under this Agreement.

The parties are directed to Civil Code § 846.1, which authorizes an owner of an estate in real property, whether possessory or non-possessor, and public entities to seek reimbursement from the California Department of General Services for reasonable attorneys' fees incurred in defending a claim alleging an injury or damages on real property used for a recreational trail where the claim is dismissed by the plaintiff or court, or where the Grantor or Grantee prevails in the civil action.

12. Assignment of Rights. County has already assigned certain construction and other obligations to NVTA. County may further assign any of its construction, operation or maintenance obligations hereunder to the State of California, another public entity, or other qualified organization, provided the public entity or qualified organization covenants to perform such obligations consistent with this Agreement, with the prior

written consent of Grantor or its heirs, successors, or assigns, which consent will not be unreasonably conditioned or withheld. County may assign and transfer this Agreement and the Easement, and all rights and obligations with respect thereto, to the State of California, another public entity, or other qualified organization, with the prior written consent of Grantor or its heirs, successors, or assigns, which consent will not be unreasonably conditioned or withheld. An assignment as described in the immediately preceding sentence will only release County from its obligations under this Agreement from and after the date of the assignment and only if the transferee agrees, in writing, to be bound by the terms and conditions of this Agreement and expressly assumes the County's obligations under this Agreement. An assignment that complies with the foregoing restrictions will be effective upon the recording of a deed conveying the Easement to said transferee.

- 13. Run With the Land. The benefits and burdens of this Easement shall run with the title to the described properties of Grantor and County and shall inure to the benefit of and bind the parties hereto, and each of them, as well as their respective agents, heirs, assigns and successors in right, title or interest in or to all or any part of said properties at all times hereinafter.
- 14. **Temporary Construction Easement**. Grantor agrees to grant to NVTA a Temporary Construction Easement that is three feet wider on each side than the Easement Area depicted in <u>Exhibit B</u>, in a form substantially similar to the Temporary Construction Access Easement Agreement attached hereto as <u>Exhibit C</u>. The attached Temporary Construction Access Easement Agreement sets forth the timing and duration of Grantee's access to the Temporary Construction Easement, along with other terms and conditions governing the Temporary Construction Easement.
- 15. Entire Agreement. This Agreement together with the exhibits hereto, each of which are incorporated herein by this reference, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements with respect thereto.
- 16. **Notices**. Any notices required by this Agreement or correspondence between the parties shall be addressed as follows, unless the parties shall provide written notice of a change:

GRANTOR:

Jackson Family Investments III

425 AVIATION BLVD.

SANTA ROSA, CA 95403

ATTN: LEGAL DEPARTMENT

LEGAL.NOTICE@JFWMAIL.COM

COUNTY:

Public Works Director Napa County 1195 Third Street, Suite 101 Napa, CA 94559

With a copy to (which copy shall not constitute notice):

Clerk of the Board of Supervisors Napa County 1195 Third Street, Suite 303 Napa, CA 94559

Notice shall be delivered personally, including by messenger or courier, or by certified mail, return receipt requested, postage prepaid. Notices shall be deemed to have been duly given (a) if delivered personally, on the date of delivery; (b) if transmitted by certified mail, on the earlier of (i) the second (2nd) business day after the date of such mailing, or (ii) the date of receipt. The addresses and addressees may be changed by giving written notice of such change in the manner provided herein for giving notice. Unless and until such written notice is received, the last address and addressee as stated by written notice, or as provided herein if no written notice or change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

17. Interpretation.

- A. This Easement shall be interpreted under the laws of the State of California without regard to the conflicts or choice of law provisions thereof. Any ambiguities and questions of the validity of specific provisions shall be interpreted so as to give maximum effect to its intent to protect Grantor's reserved rights and uses, including the right to farm and to engage in agriculture, and its public access purpose.
- B. Unless specifically stated and attached to this Easement, references to specific authorities in this Easement shall be to the statute, rule, regulation, ordinance, or other legal provision that is in effect at the time this Easement becomes effective.
- C. No provision of this Easement shall constitute governmental approval of any improvements, construction, or other activities that may be permitted under this Easement.
- 18. Severability. If any term, provision, covenant, condition, or restriction of this Easement is held by a court of competent jurisdiction to be unlawful, invalid, void, unenforceable, or not effective, the remainder of this Easement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
- 19. **Recordation**. This Agreement evidencing the Easement shall be recorded in the official records of Napa County.
- 20. Third Party Beneficiaries. Except to the extent the Vine Trail Coalition is named for the sole purpose of receiving and subsequently procuring additional insurance as may be available, nothing under this Agreement is intended to create any rights or interests in any third parties.
- 21. Relocation Assistance and Real Property Acquisition Policies Acts. Grantor is donating the Easement for the purpose of facilitating completion of the Vine Trail, and

hereby voluntarily and knowingly waives any and all payments, compensation, appraisals, entitlements and benefits to which Grantor may be entitled under the State of California Uniform Relocation Assistance and Real Property Acquisition Policies Act (Gov. Code § 7260 et seq.) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) and any amendments thereto. It is agreed that the property conveyed by this Agreement is being donated to the County by the undersigned Grantor. Grantor, having initiated this donation, has been informed of the right to compensation for the property donated and hereby waives such right to compensation.

- 22. Mandatory Non-binding Mediation. If a dispute arises under this Agreement, the parties will endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of the American Arbitration Association ("AAA") or any other neutral organization agreed to by the parties. Mediation is mandatory before either party may have recourse in a court of law, except in the circumstances described in Paragraph 23 below.
- A. <u>Mediation Costs</u>. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.
- B. Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the claim. The mediator will be knowledgeable in public entity liability or real property rights, and may be selected from lists furnished by the American Arbitration Association (unless the parties mutually agree on another mediator). The parties shall endeavor to agree on a mediator within ten (10) business days after the date a party requests mediation, unless a longer period is mutually agreed to in writing by the Grantor and County. If the parties are unable to agree on a mediator within that ten-day period, or such other mutually agreed upon period, AAA or the other neutral organization administering the mediation will appoint a mediator who is a retired judge or other neutral with at least ten (10) years experience and who has the knowledge prescribed in the second sentence of this subpart B.
- C. Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the claim, though the County's recommendation of settlement may be subject to the approval of the Board of Supervisors. Either party may have attorney(s), witnesses or expert(s) present. Either party may request a list of witnesses and notification whether attorney(s) will be present.

- D. <u>Mediation Results</u>. Any resultant agreements from mediation shall be documented in writing. Mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing by both parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.
- 23. <u>Injunctive Relief.</u> Paragraph 22 above notwithstanding, either party will have the right, without first proceeding to mediation hereunder, to seek injunctive relief from a court of competent jurisdiction in the event that the other party's conduct threatens imminent irreparable harm to the interests of the party seeking such relief, for which money damages are inadequate. The court will determine whether a bond or other security shall be required in order to obtain such relief.
- Authority. Each person executing this Easement Agreement on behalf of a party hereto has all requisite consent, power and authority to execute this Easement Agreement on behalf of that party and any other agreements or instruments required hereunder and that party has all requisite consent, power, and authority to enter into and perform its obligations under this Easement Agreement and all other agreements and instruments entered into in connection herewith.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date this Agreement is executed below.

"GRANTOR"

JACKSON FAMILY INVESTMENTS III, LLC, a California limited liability company

By: TYVER J. COMSTOCK, alea Tyler Comstoc

Its: SVP, FINANCE

"COUNTY"

NAPA COUNTY, a political subdivision of

the State of California

Alfredo Pedrozin

DIANE DIELON, Chair of the Board of

Supervisors

APPROVED AS TO FORM
Office of County Counsel

Deputy County Counse

Date: 3 17 2021

APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS

Date: 12/15 / 2020

) July 1

Processed By

Deputy Clerk of the Board

ATTEST: Jose Luis Valdez Clerk of the Board of

Suppervisors

SEAL AFFIXED

CALIFORNIA ACKN		100-100-100-100-100-100-100-100-100-100	CIVIL CODE § 1189
1 * .	officer completing this certificate veri is attached, and not the truthfulness	•	e individual who signed the document that document.
State of California County of SCNO On Deember Date personally appeared	7th, 2020 before me, Y	Here Insert Nan	ne and Title of the Officer
to the within instrume authorized capacity(ie	nt and acknowledged to me tha	t he/she/they execute ature(s) on the instru) whose name(s) is/are subscribed ed the same in his/her/their ment the person(s), or the entity
Notary So Comm	IDRI M. SHORT Public - California snoma County sission # 2307884 The Expires Oct 5, 2023	-	
Place Notary S	eal and/or Stamp Above		Signature of Notary Public
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Document Date:		Number of Pages:	
Signer(s) Other Tha	an Named Above:		
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☐ Corporate Office	r – Title(s):	Signer's Name:	
□ Partner – □ Lim		□ Partner – □ Limited □ General	
□ Individual			☐ Attorney in Fact
	☐ Guardian or Conservator		☐ Guardian or Conservator
Other:		□ Other:	
Signer is Represen	ting:	Signer is Representing:	

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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 Napa} ss.

On March 19, 2021 before me, Greg S. Morgan, Notary Public, personally appeared Alfredo Pedroza, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

GREG S. MORGAN Commission #2309553 Notary Public – California

Napa County

My Commission Expires October 20, 2023

Work Phone: 707-299-1515



GREG S. MORGAN

COMMISSION #2309553 Notary Public - California NAPA COUNTY MY COMMISSION EXPIRES October 20, 2023

971

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

PARCEL ONE:

A portion of Lots 3 and 4 as shown on the map entitled, "Map of Lodi Home Tract", filed April 21, 1906, in Book 1 of Maps, at page 41, in the office of the County Recorder of said Napa County, more particularly described as follows:

COMMENCING at a point formed by the intersection of the Southeastern line of Lodi Lane with the Northeastern line of the State Highway leading from St. Helena to Calistoga; running thence along said Southeastern line of Lodi Lane, North 49° 30' East 326.00 feet; thence South 40° 30' 00" East 58.38 feet; thence South 49° 30' 00" West 1.27 feet; thence South 42° 32' 06" East 199.23 feet to a point on a nontangent curve concave to the east having a radius of 785.26 feet and to which point a radial line bears North 73° 21' 13" West; thence southerly 784.37 feet along said curve through a central angle of 57° 13' 52" to a point on the above mentioned northeasterly line of the State Highway; thence along said northeastern line, North 40° 00' 21" West 281.53 feet and North 38° 15' West 637.28 feet to the point of beginning.

EXCEPTING THEREFROM, that portion granted to the State of California in the document recorded April 21, 2005 as Series Number 2005-0015274 and described as follows:

COMMENCING at the most Westerly corner of said parcel; thence along the Southwesterly line of said parcel, South 37°28'05" East, 32.579 meters; thence North 30°08'57" West, 13.582 meters; thence along a curve to the right with a radius of 23.000 meters, through a central angle of 80°23'36", an arc length of 32.272 meters to the Northwesterly line of said parcel; thence along last said line, South 50°14'39" West, 23.644 meters to the Point of Commencement.

APN 022-220-028

PARCEL TWO:

A non-exclusive easement for ingress and egress as granted in the "Easement Grant Deed" recorded November 13, 2001 as Series Number 2001-0039669 of Official Records.

PARCEL THREE:

Easement interests described in the document recorded November 15, 2013 as Series Number 2013-0032054 of Official Records.

EXHIBIT B

EASEMENT AREA LEGAL DESCRIPTION AND PLAT

(Attached)

#5171 Reach 2A (Version 4) 09-24-2020 022-220-028 Jackson Family

Exhibit B

A Public Trail Easement, in, on, over, across, under, and through a portion of the Lands of Jackson Family Investments III, LLC, a Delaware limited liability company, as described in the deed recorded November 15, 2013 as Series Number 2013-0032053, Napa County Records, State of California, said portion being that portion of the said Jackson Family Investments III, LLC, within the following described strip of land:

A strip of land varying in width being initially of the uniform width of 14.00 feet wide lying 7.00 feet on each side of the following described reference line:

Beginning at the point that bears South 37° 32' 03" West 168.50 feet from the 2 inch Brass Disk marked "NAPA-10" located on Deer Park Road approximately 172 feet from California State Highway 29; thence North 55° 14' 18" West 45.87 feet to the beginning of a curve concave to the northeast having a radius of 90.00 feet; thence 27.08 feet along said curve through a central angle of 17° 14' 26" to the beginning of a reverse curve concave to the southwest having a radius of 90.00 feet; thence 28.33 feet along said curve through a central angle of 18° 02' 17; thence North 56° 02' 10" West 132.71 feet to the beginning of a curve concave to the south having a radius of 400.00 feet; thence 56.41 feet along said curve through a central angle of 8° 04' 49" to the beginning of a reverse curve concave to the north having a radius of 200.00 feet; thence 30.00 feet along said curve through a central angle of 8° 35' 37"; thence North 55° 31' 22" West 261.89 feet to the point that bears South 85° 01' 03" East 11.20 feet from a 1 inch Iron Pipe with Cap "CALIF DOT"; thence North 57° 06' 50" West 28.70 feet; thence changing the width to be 19.00 feet lying 7.00 feet left and 12.00 feet right of said reference line; thence North 57° 06' 50" West 11.19 feet; thence North 54° 34' 58" West 151.08 feet; thence North 45° 57' 21" West 20.00' feet; thence North 54° 34′ 58" West 10.38 feet; thence changing the width to be 14.00 feet lying 7.00 feet on each side of said reference line; thence North 54° 34' 58" West 145.35 feet; thence North 52° 24' 35" West 61,00 feet; thence changing the width to be 17.00 feet lying 7.00 feet left and 10.00 feet right of said reference line; thence North 52° 24' 35" West 42.33 feet; thence North 48° 00' 42" West 222.11 feet to the beginning of a curve concave to the northeast having a radius of 2000.00 feet; thence 26.62 feet along said curve through a central angle of 0° 45' 46"; thence changing the width to be 14.00 feet lying 7.00 feet on each side of said reference line; thence continuing along said 2000.00 foot curve 17.95 feet through a central angle of 0° 30' 51"; thence North 46° 44' 05" West 80.12 feet to the beginning of a curve concave to the southwest having a radius of 500.00 feet; thence 53.50 feet along said curve through a central angle of 6° 07' 49" to the beginning of a reverse curve concave to the northwest having a radius of 125.00 feet; thence 50.14 feet along said curve through a central angle of 22° 58' 58" to the beginning of a reverse curve concave to the southwest having a radius of 100.00 feet; thence 27.35 feet along said curve through a central angle of 15° 40' 10"; thence North 45° 33' 06" West 275.44 feet to the beginning of a curve concave to the southwest having a radius of 200.00 feet; thence 22.43 feet along said curve through a central angle of 6° 25' 37" to the beginning of a reverse curve concave to the northeast having a radius of 200.00 feet; thence 21.37 feet along said curve through a central angle of 6° 07' 19"; thence North 45° 51' 23" West 275.26 feet to a point that bears South 55° 20' 17" East 104.27 feet from a

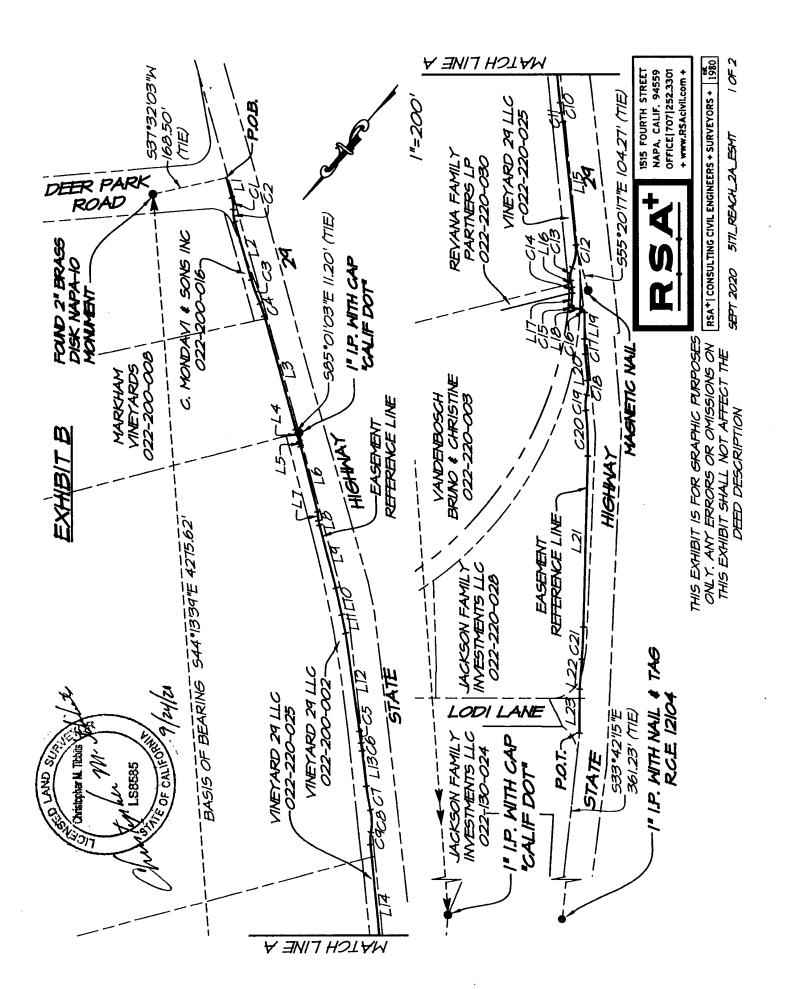
#5171 Reach 2A (Version 4) 09-24-2020 022-200-028 Jackson Family

Magnetic Nail in the east side of California State Highway 29, approximately 900 feet from the southeast of Lodi Lane said point being the beginning of a curve concave to the northeast having a radius of 100.00 feet; thence 51.88 feet along said curve through a central angle of 29° 43' 29" to the beginning of a reverse curve concave to the southwest having a radius of 50.00 feet; thence 29.67 feet along said curve through a central angle of 34° 00' 03"; thence North 50° 07' 57" West 15.00 feet to the beginning of a curve concave to the northeast having a radius of 50.00 feet; thence 12.33 feet along said curve through a central angle of 14° 07' 49"; thence North 36° 00' 08" West 27.73 feet to the beginning of a curve concave to the south having a radius of 6.00 feet; thence 9.26 feet along said curve through a central angle of 88° 27' 27"; thence South 55° 32' 25" West 18.16 feet to the beginning of a curve concave to the north having a radius of 7.00 feet; thence 10.35 feet along said curve through a central angle of 84° 40' 47"; thence North 39° 46' 47" West 58.74 feet to the beginning of a curve concave to the southwest having a radius of 334.12 feet; thence 33.88 feet along said curve through a central angle of 5°48'36"; thence North 45° 35' 24" West 58.54 feet to the beginning of a curve concave to the northeast having a radius of 100.00 feet; thence 33.22 feet along said curve through a central angle of 19° 01' 53" to the beginning of a reverse curve concave to the southwest having a radius of 100.00 feet; thence 34.51 feet along said curve through a central angle of 19° 46' 15" to the beginning of a reverse curve concave to the northeast having a radius of 750.00 feet; thence 102.18 feet along said curve through a central angle of 7° 48' 21"; thence North 38° 31' 25" West 381.61 feet to the beginning of a curve concave to the northeast having a radius of 1500.00 feet; thence 72.38 feet along said curve through a central angle of 2° 45' 52"; thence North 35° 45' 32" West 66.49 feet; thence North 39° 44' 25" West 99.91 feet to the point that bears South 33° 42' 15" East 361.23 feet from a 1 inch Iron Pipe with Nail & Tag R.C.E. 12104 said point being the Point of Terminus.

The sidelines of easement where widths change shall occur at right angles. The sidelines at Point of Beginning, Angle Points, and Point of Terminus shall be extended or shortened to intersect the adjoining sidelines or parcel boundaries.

Basis of Bearing: The bearing between the 2" Brass disk monument marked 'Napa-10" found approximately 172' East of California State Highway 29 on Deer Park Road and 1" Iron Pipe with cap "CALIF DOT" Measuring South 44° 13' 39" East.

End Description



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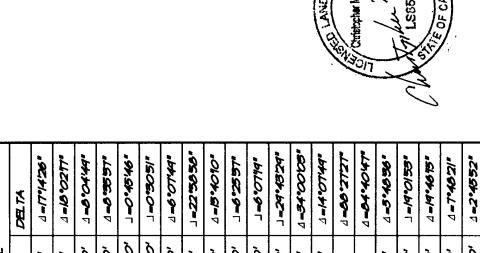
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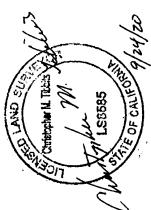


EXHIBIT B

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THIS EXHIBIT IS FOR GRAPHIC

OFFICE|707|252,3301 + www.RSAcivil.com + NAPA, CALIF. 94559

RSA+| CONSULTING CIVIL ENGINEERS + SURVEYORS + 1980 STIL REACH 24 ESMT SEPT 2020 PURPOSES ONLY. ANY ERRORS OR OMISSIONS ON THIS EXHIBIT SHALL NOT AFFECT THE DEED DESCRIPTION

EXHIBIT C

TEMPORARY CONSTRUCTION ACCESS EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION ACCESS EASEMENT AGREEMENT (this "Agreement") is entered into this ____ day of ______, 2020, by JACKSON FAMILY INVESTMENTS III, LLC, a California limited liability company, whose legal address is 421 Aviation Blvd. Santa Rosa, CA 95403 (the "Grantor"), and the NAPA VALLEY TRANSPORTATION AUTHORITY, a joint powers authority in the County of Napa, State of California, whose address is 625 Burnell Street, Napa, CA 94559 ("NVTA") (collectively, the "Parties").

For a valuable consideration set forth in the Easement Agreement defined below, the receipt and sufficiency of which is acknowledged, and the further consideration of the covenants and agreements set forth below, Grantor hereby conveys, transfers, and delivers to the NVTA, its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successor and assigns (all referred to as only "Grantee"), a non-exclusive Temporary Construction Access Easement (the "Temporary Construction Easement") that is three feet wider than the Easement Area depicted in Exhibit B of that Easement Agreement, a copy of which is attached and incorporated by this reference (the "Temporary Easement Property"), to facilitate Grantee's construction of public bike and pedestrian pathway/trail and other related improvements in the vicinity of the Temporary Easement Property (the "Project").

This Temporary Construction Easement is granted in accordance with, and subject to, the following terms, conditions, requirements, and limitations:

- 1. Reference is made to that Trail Easement Agreement dated ________, 2020 (the "Easement Agreement") and entered into by and between Grantor and Napa County, a political subdivision of the State of California ("County"). Pursuant to NVTA Agreement 19-12 and County Agreement No. 190311, as amended, NVTA has committed to completing environmental review, obtaining rights of entry and construction easements, and procuring design and construction services. Consequently, and in addition to the covenants and conditions prescribed below, NVTA hereby assumes those obligations of County in the Easement Agreement governing the initial construction of the Project (referred to as the "Vine Trail" in in that Easement Agreement) and agrees to adhere to the standards of care prescribed in such Easement Agreement as such standards relate to the initial construction of the Project.
- 2. The Temporary Construction Easement is granted for vehicular and pedestrian ingress and egress to and from the Temporary Easement Property and for Grantee's use to do all things reasonably necessary to construct and install the Project including, but not limited to, the transport, stockpiling and storage of construction materials, soil, equipment and vehicles within the boundaries of the Temporary Easement Property; provided that Grantee shall to the extent reasonably possible store overnight equipment and vehicles at nearby off-site staging areas to allow for Grantor's agricultural use of Grantor's lands. Upon expiration of the Temporary Construction Easement, the Grantee, at its sole cost and expense, shall restore the Temporary Easement Property to substantially the same

Exhibit C to Trail Easement Agreement (Temporary Construction Access Easement Agreement - 1 of 4)

condition it was in prior to Grantee's use. Grantee shall not leave any rubbish or debris on or about the Temporary Easement Property. The term of this Agreement shall begin five days after the date written notice is mailed by U.S. mail to Grantor by NVTA and shall extend therefrom for twenty-four months or until the Project has been completed, whichever first occurs. NVTA may extend the Temporary Construction Easement for two (2) additional six (6) month periods by giving written notice to Grantor on or before the expiration of the Temporary Construction Easement.

- 3. Upon termination of this Agreement, all covenants in this instrument are released (other than NVTA's restoration obligations set forth in Paragraph 2 and NVTA's indemnification obligations set forth in Paragraph 4, all of which shall survive the expiration or termination of this Agreement) and the Temporary Easement Property shall be considered free and clear of any restriction or any right or privilege attaching to the grant of the Temporary Construction Easement set forth in this Agreement. Upon request by Grantor, NVTA shall execute any documents reasonably requested by Grantor to confirm the termination of this Agreement.
- The Temporary Construction Easement shall allow NVTA and its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successors, and assigns thereof to use the Temporary Easement Property during the construction of the Project. Grantee shall use the Temporary Easement Property solely for the purpose described in Paragraph 2 and for no other purpose. In no event may any use of the Temporary Easement Property by Grantee violate any applicable law (including without limitation, any hazardous materials laws), rule or regulation relating to the Temporary Easement Property or materially impact Grantor's normal business operations on the Temporary Easement Property or any adjacent property. To the extent allowed by law, NVTA shall indemnify and hold the Grantor harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the acts or omissions of NVTA or its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successors, or assigns thereof (including, without limitation, hazardous materials brought onto the Temporary Easement Property), except to the extent such claims or damages may be due to or caused by the active negligence or willful misconduct of Grantor or its employees, contractors or agents.
- 5. Prior to commencement of the Project, NVTA shall install construction fencing, reasonably acceptable in design and location to Grantor, separating the Temporary Easement Property from the remainder of Grantor's lands. Such construction fencing shall be constructed of netting and shall be designed and installed in a manner such that it can be moved readily to accommodate any farming and agricultural operations of Grantor occurring in the immediate vicinity. NVTA shall maintain said construction fencing in good condition and repair during completion of the Project. Grantor shall have the right to use the Temporary Easement Property in connection with the above-described agricultural operations at all reasonable times, provided such use does not unreasonably impede or impair NVTA's Project construction activities occurring therein or otherwise endanger or risk harm to NVTA's contractors, subcontractors, agents, or representatives engage in such construction activities. The parties will cooperate with each other in good faith to accommodate any such Grantor operations requiring use of the Temporary Construction Property.

Exhibit C to Trail Easement Agreement (Temporary Construction Access Easement Agreement - 2 of 4)

- 6. At no time during the term of this Agreement, and at no time during construction of the "Vine Trail" (as that term is defined in the Easement Agreement), shall Grantee stockpile, store or otherwise place construction, testing or staging materials, soil, equipment, vehicles or any other items relating to the Project on any part or portion of the lands of Grantor except within the boundaries of the Temporary Easement Property.
- 7. Grantor represents that it is the fee owner of the Temporary Easement Property and that it has the authority to grant this Temporary Construction Easement to NVTA.
- 8. Grantor reserves all rights attendant to its ownership of the Temporary Easement Property, including but not limited to the use and enjoyment of the Temporary Easement Property for all purposes not inconsistent with the terms and conditions of this Agreement.
- 9. As a condition of this Agreement and of Grantor's grant of the Temporary Construction Easement hereunder, Grantee, shall, at their respective cost and expense, insure their activities on the Temporary Construction Easement area, and each shall obtain, keep in force, and maintain at all times during the term of this easement: (a) Commercial Form General Liability Insurance with an insurance carrier qualified to do business in the State of California and rated at least [A], on an occurrence basis and with per-occurrence and general aggregate limits of liability at \$2,000,000 and \$4,000,000 respectively, and (b) Workers' Compensation Insurance in accordance with California law and including Employer's Liability Coverage with commercially reasonable limits of liability. All insurance policies required under this Paragraph 9 will name Grantor as an additional insured and such policies will be primary and non-contributory with any insurance carried by Grantor. Proof of the foregoing insurance will be provided to Grantor promptly on the reasonable request of Grantor.
- 10. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to Grantor:	If to NVTA:
Jackson Family Investments III	Napa Valley Transportation Authority Attn: Executive Director
	625 Burnell Street,
	Napa, CA 94559

11. Except for the Easement Agreement, this Agreement represents the entire agreement between the Grantor and NVTA as relates to the Temporary Construction Easement and supersedes all prior negotiations, representations, or agreements, either written or oral. Any amendments to this Agreement must be in writing and signed by both the Executive Director and the Grantor.

Exhibit C to Trail Easement Agreement (Temporary Construction Access Easement Agreement - 3 of 4)

- 12. Each and every term, condition, or covenant of this Agreement is subject to and shall be construed in accordance with the provisions of California law. Venue for any action arising out of this Agreement shall be in the District Court in the County of Napa, California.
- 13. The benefits and burdens of the Temporary Construction Easement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- 14. This Agreement shall not be recorded, but shall nevertheless become effective upon full execution by all parties and delivery of same to the NVTA.

[SIGNATURE PAGE TO FOLLOW]

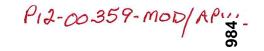
END OF DOCUMENT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

GRANTOR:
JACKSON FAMILY INVESTMENTS III, LLC, a California limited liability company
By: Its:
GRANTEE:
Napa Valley Transportation Authority, Napa
By: Catherine Miller, Executive Director, Authorized pursuant to Resolution No.

Attachment E

P12-00359-VMM Approval Letter 022-130-020 022-130-021 022-130-023 022-130-024





A Tradition of Stewardship A Commitment to Service

Conservation Development and Planning

1195 Third Street, Suite 210 Napa, CA 94559 www.co.napa.ca.us

> Main: (707) 253-4417 Fax: (707) 253-4336

> > Hillary Gitelman Director

Revised December 21, 2012

Jackson Family Investments III, LLC Geoff Scott, Director of Planning 1000 Alexander Valley Road Geyserville, CA 95441 Email: Gscott@kjmail.com

Re:

Freemark Abbey Winery

Use Permit Very Minor Modification #P12-00359-VMM Assessor's Parcel Numbers: 022-130-020;-021;-023; and -024

Dear Mr. Scott,

Please be advised that your request for a Minor Modification (#P12-00359) to Use Permit to U-87273, and as modified by U567980, U-278081, 98489-MOD to perform interior remodeling, and minor construction associated with relocation of stairwells, construction of an elevator and associated structural and access improvements as detailed below in the scope; no increase to production, employees, and visitation was **APPROVED** by the Director of Conservation, Development and Planning on December 13, 2012 contingent on the attached conditions of approval. All previous Use Permit conditions not in conflict with this modification still apply in addition to the attached conditions of approval.

Please be advised that the Director of Conservation, Development and Planning has determined that this very minor modification is **Categorically Exempt** from the provisions of CEQA, the California Environmental Quality Act. Pursuant to CEQA Section 15303, Class 3, New Construction or Conversion of Small Structures of Napa County's Local Procedures for Implementing the California Environmental Quality Act, the project consists of a minor alteration to a previously approved project involving no expansion in production or marketing activities and it is not located in an environmentally sensitive area.

In addition, as required by Napa County Code Section 18.10.020(A.) (13.), the project is a minor alteration to a previously approved winery project consistent with Napa County Code Section 18.124.130 (c.) and can therefore be administratively approved pursuant to Napa County Code Section 18.126.030 (F.)

Pursuant to Section 18.124.080 of the Napa County Code, this minor modification must be activated within two (2) years from the approval date, or it shall automatically expire and become void. This letter serves as the only notice you will receive regarding the expiration date of your very minor modification permit. In addition, approval of this very minor modification has no effect on the time limits in which to activate the original project use permit.

The modification is effective immediately unless an appeal is filed with the Napa County Board of Supervisors pursuant to Chapter 2.88 of the Napa County Code. You may appeal the conditions of approval. In the event an appeal is made to the Board by another, you will be notified.

Expiration Date: December 21, 2014

You are hereby further notified, pursuant to Government Code Sec.66020 (d)(1), that the 90-day period, in which you would have to protest imposition of any fees, dedications, reservations, or other exactions that may have been attached as conditions of approval, has begun.

Should you have any questions, please contact Kirsty Shelton, Project Planner at (707)299-1337 or e-mail at *Kirsty.shelton@countyofnapa.org*.

Sincerely,

Slelfn. for

Hillary Gitelman

Director

By: Kirsty Shelton, Planner III

cc: file

Rob Anglin, Holman Teague Roche Anglin LLP John Tuteur, Assessor – Recorder – County Clerk

John McDowell, Deputy Planning Director

Napa County Building Inspection

Napa County Public Works

Napa County Environmental Management

Napa County Fire Marshall

CONDITIONS OF APPROVAL

Freemark Abbey Winery File # P12-00359-VMM APNs: 022-130-020;-021;-023; and -024

1. SCOPE

This approval consists of exterior and interior modifications, minor expansion of use, and accessibility improvements within two of the existing primary buildings that make up the Freemark Abbey winery. Below is a description of these improvements as depicted in the attached Exhibit A.

1. The main building consists of winery office and accessory uses and is located on APN 022-130-024, this approval allows the following modifications:

Remodel of:

- a. \pm 3,000 sq. ft. of basement level production and barrel storage to barrel and case good storage;
- b. $\pm 3,000$ sq. ft. of first level winery office space to accommodate a corridor for the elevator;
- c. $\pm 3,000$ sq. ft. of second level winery office space remodel to facilitate training; Construction of:
 - d. \pm 135 sq. ft. on the second level along the eastern edge of the building;
 - e. ± 65 sq. ft. deck on the first level along the eastern edge;
 - f. remodel and a cover of the existing pedestrian bridge; g.a new elevator;
 - h. a stairwell adjacent to the new elevator;
 - i. exterior modifications on the façade; and
 - j. kitchen facilities to commercial standards.
- 2. The winery building consists of primarily production uses and a tasting room located on APN 022-130-023, this approval allows the following-

Construction of:

- a. ± 210 sq. ft. to the existing viewing deck;
- b. a cover of the existing pedestrian bridge;
- c. exterior modifications on the façade; and
- d. kitchen facilities to commercial standards.
- 3. Wine/food pairings to existing tours and tastings and on-premise wine consumption consistent with AB 2004 within all areas already approved for tasting and the addition of the existing gardens as depicted on Exhibit A.
- 4. Acknowledgement of the 52,775 square feet, or 170 parking spaces located within Agricultural Watershed (AW) zoning and identified on the attached parking plan, Exhibit B, as parking for the Freemark Abbey Winery and the shared uses within the Commercial Limited (CL) zoning.

The plans for construction shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials and shall comply with all requirements of the Napa County Code. It is the responsibility of the applicant to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and guest of the winery to ensure compliance is achieved. Any expansion or changes in use shall be by the approved in accordance with Section 18.124.130 of the Napa County Code and may be subject to the Use Permit modification process.

2. RENTAL/LEASING

No winery facilities, nor portions thereof, including but not limited to offices, kitchens, barrel storage areas, and warehousing space, shall be rented, leased, nor used by entities other than persons producing and/or storing wine at the on-site winery, except as may be specifically authorized in this use permit or pursuant to the Temporary Events Ordinance (Chapter 5.36)

3. COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES

The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Departments and Agencies, including but not limited to:

- a. Napa County Fire memo dated October 17, 2012.
- b. Napa County Public Works dated November 9, 2012.
- c. Napa County Environmental Management dated December 6, 2012.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Departments and Agencies shall be determined by those Departments or Agencies. The inability to substantially comply with the requirements of other County Departments and Agencies may result in the need to modify the approved use permit.

4. WELLS

The permittee may be required (at the permittee's expense) to provide well monitoring data if it the Director of Environmental Management determines that water usage at the winery is affecting, or would potentially affect groundwater supplies or nearby wells. Data requested could include, but may not be limited to, water extraction volumes and static well levels. If applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gage potential impacts on the groundwater resource utilized for the project proposed.

Water usage shall be minimized by use of best available control technology and best water management conservation practices. In the event that changed circumstances or significant new information provide substantial evidence that the groundwater system referenced in the use permit would significantly affect the groundwater basin, the director of environmental management shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to meet the requirements of the Napa County Groundwater Ordinance and protect public health, safety, and welfare. That recommendation shall not become final unless and until the

director has provided notice and the opportunity for hearing in compliance with the County Code section 13.15.070.G-K.

5. NOISE

Construction noise shall be minimized to the maximum extent practical and allowable under State and local safety laws. Construction equipment mufflering and hours of operation shall be in compliance with County Code Chapter 8.16. Equipment shall be shut down when not in use. Construction equipment shall normally be staged, loaded, and unloaded on the project site. If project terrain or access road condition require construction equipment to be staged, loaded, or unloaded off the project site (such as on a neighboring road or at the base of a hill), such activities shall only occur between the hours of 8 AM to 5 PM.

Exterior winery equipment shall be enclosed or muffled and maintained so as not to create a noise disturbance in accordance with the Code. There shall be no amplified sound system or amplified music utilized outside of approved, enclosed winery buildings.

6. TRAFFIC

Reoccurring and scheduled vehicle trips to and from the site for employees, deliveries, and visitors will not occur during peak (4-6 PM) travel times to the maximum extent possible. All road improvements on private property required per the Department of Public Works shall be maintained in good working condition.

7. INDEMNIFICATION

An indemnification agreement, in the form attached hereto, shall be signed and returned to the County within twenty (20) days of the granting of this approval.

8. AFFORDABLE HOUSING MITIGATION

Prior to County issuance of a building permit, the applicant shall pay the Napa County Affordable Housing Mitigation Fee in accordance with the requirements of County Code Chapter 18.107 or as may be amended by the Board of Supervisors.

9. PREVIOUS CONDITIONS

The permittee shall comply with all previous conditions of approval including those for Use Permit - 87273, and as modified by U-567980, U-278081, 98489-MOD except as modified by this action. To the extent there is a conflict between previous conditions of approval and these conditions of approval, these conditions shall control and supersede all earlier ones.

10. MONITORING COSTS

All staff costs associated with monitoring compliance with these conditions, previous permit conditions and project revisions shall be borne by the permittee and/or property owner. Costs associated with conditions and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged.

Costs shall be as established by Board Resolution in accordance with the hourly consulting rate established at the time of the monitoring. Violations of conditions of approval or mitigations measures caused by the permittee's contractors, employees, and guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of compliance deficiencies is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the program at the applicant's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if it is so warranted, to commence revocation hearings in accordance with section 18.124.120 of the County Code.

11. TEMPORARY AND FINAL OCCUPANCY

All project improvements, including compliance with all applicable codes, conditions and requirements from all departments and agencies with jurisdiction over the project, shall be completed prior to granting of a Certificate of Final Occupancy by the County Building Official, which, upon granting, authorizes all use permit activities to commence. The County Building Official is authorized to grant a Temporary Certificate of Occupancy to allow specified limited use of the project, such as commencement of production activities, prior to completion of all project improvements. Marketing, Tours and Tastings are not typically authorized until grant of Final Occupancy, but exceptions can be requested due to extenuating circumstances and are subject to review and approval by the County Building Official and the Director of Conservation, Development and Planning. In special circumstances, departments and/or agencies with jurisdiction over the project are authorized as part of the Temporary Certificate of Occupancy process to require a security deposit or other financial instrument to guarantee completion of unfinished improvements.



1195 Third Street, Suite 201 Napa, CA 94559-3092 www.co.napa.ca.us/publicworks

> Main: (707) 253-4351 Fax: (707) 253-4627

> > Steven E. Lederer Interim Director

MEMORANDUM

То:	Kirsty Shelton, Conservation Development and Planning Department	From:	Jeannette Doss, Assistant Engineer () Public Works
Date:	November 9, 2012	Re:	Freemark Abbey Winery Use Permit – PW CoA 3022 St. Helena Hwy, Napa, CA
2 F 1	el Bergon (1986) i sam et gant et en	21.0	P12-00359 APN 022-130-021, 022-130-022, 022-130- 023, and 022-130-024

The Napa County Public Works Department received a referral for comment on a use permit application requesting multiple Minor Modifications to an existing Use Permit 62-66 to allow the following:

- Remodel the storage/office building
- Trellis/deck addition to the existing winery building
- To recognize the use of approximately 52,775 square feet of parking for the CL uses on AW zoned land as shown on the site plan as a legal non conforming situation.
- All other aspects remain unchanged. There is no increase in visitation, number of employees, etc.

After careful review of the Freemark Abbey Winery Use Permit submittal package the Public Works Department recommends approval of the project with the following recommended conditions:

RECOMMENDED CONDITIONS:

PARKING:

1. Any new parking or changes to the existing parking (including but not limited to re-paving or re-striping) proposed by the applicant or required by the Planning Commission as a condition of this permit must conform to the requirements of the latest edition of the Napa County Road and Street Standards.

NEW PRIVATE ACCESS ROADS AND DRIVEWAYS:

2. All roadway construction associated with this application shall conform to the current Road and Street Standards of Napa County at the time of building permit submittal and accepted construction and inspection practices.

P12-00359 Freemark Abbey Winery
Use Permit - Public Works Conditions of Approval
Page 2 of 3

- 3. The applicant must obtain an encroachment permit from this office for any work performed within the Napa County Right-of-Way.
- 4. The applicant must obtain an encroachment permit from the California Department of Transportation for any work performed within the State Right-of-Way.

SITE IMPROVEMENTS:

5. Any proposed changes to the existing drainage for the development shall be shown on the improvement plans and shall be accomplished to avoid the diversion or concentration of storm water runoff onto adjacent properties. Plan shall also indicate the path and changes in runoff.

CONSTRUCTION STORMWATER REQUIREMENTS:

- 6. Any Project that requires a building or grading permit shall complete a Napa County Construction Site Runoff Control Requirements Appendix A Project Applicability Checklist and shall submit this form to the Napa County Public Works Department for review.
- 7. All earth disturbing activities shall include measures to prevent erosion, sediment, and waste materials from leaving the site and entering waterways both during and after construction in conformance with the Napa County Stormwater Ordinance 1240 and the latest adopted state regulations. Best Management Practices (BMPs) shall also be implemented to minimize dust at all times.
- 8. Any construction activity that equals or exceeds one acre of total disturbed area shall prepare a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the regulations of California Regional Water Quality Control Board (SRWQCB) and shall file a Notice of Intent (NOI) prior to commencement of any construction activity. The completed SWPPP shall be submitted to the Napa County Department of Public Works for review.
- 9. All hazardous materials stored and used on-site during construction that could cause water pollution (e.g. motor oil, cleaning chemicals, paints, concrete, etc.) shall be stored and used in a manner that will not cause pollution, with secondary containment provided. Such storage areas shall be regularly cleaned to remove litter and debris. Any spills shall be promptly cleaned up and appropriate authorities notified.
- 10. All trash enclosures must be covered and protected from rain, roof, and surface drainage.
- 11. The property owner shall inform all individuals, who will take part in the construction process, of these requirements.

P12-00359 Freemark Abbey Winery Use Permit - Public Works Conditions of Approval Page 3 of 3

POST-CONSTRUCTION RUNOFF MANAGEMENT REQUIREMENTS:

- 12. Project must conform and incorporate all appropriate Site Design, Source Control and Treatment Control Best Management Practices as required by the Napa County manual for *Post-Construction Runoff Management Requirements* which is available at the Public Works office.
- 13. Prior to final occupancy the property owner must legally record an "implementation and maintenance agreement" approved by the Public Works department to ensure all post-construction structures on the property remain functional and operational for the indefinite duration of the project.
- 14. Each year the entity responsible for maintenance is required to complete an annual report. The report shall be signed by the property owner and include copies of completed inspection and maintenance checklists to document that maintenance activities were conducted during the previous year. The annual report shall be retained for a period of at least five years and made available upon request by the County.

Any changes in use may necessitate additional conditions for approval.

If you have any questions regarding the above items please contact Jeannette Doss at 253-4417.

PROPOSED VIEWING DECK ADDITION; SEE A6.

PROPOSED REMODEL OF (E) BRIDGE; SEE SHEET A6.

ASSESSOR'S PARCEL # 022-130-023 ZONED AGRICULTURAL WATERSHED ASSESSOR'S PARCEL #: 022-130-024 ZONED AGRICULTURAL WATERSHED

PROPOSED REMODEL & ADDITION OF (N) ELEVATOR: SEE SHEETS A2, A3, A4, & A5.

FREEMARK ABBEY

ST. HELENA, CA

543 Howard Street, San Francisco, CA 94105, T. 415 293 5700, F. 415 293 5701 WWW.BARARCH.COM

BARARCHITECTS

10.10.12

0 25' 50' 100'

54184 A: page laf5

SITE PLAN

* gardens & on-site consumption

A

FREEMARK ABBEY

543 Howard Street, San Francisco, CA 94105, T. 415 2935700, F. 415 2935701 WWW.BARARCH.COM

BARARCHITECTS

ST. HELENA, CA

10.10.12

32'

STORAGE/OFFICE BUILDING PLANS

A2

EXHIBIT A: page 2 of 5

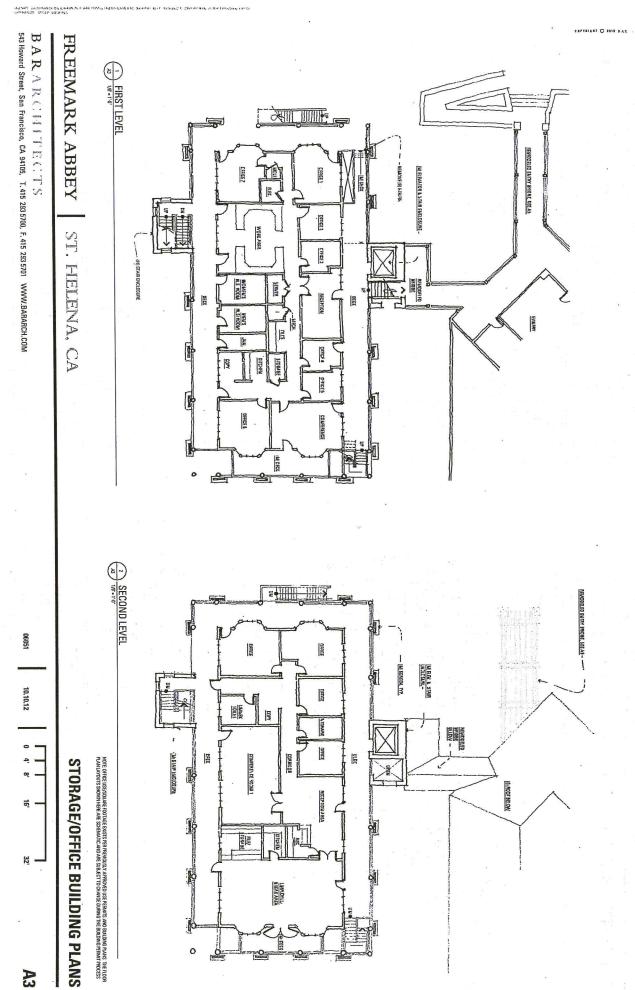


Exhibit A: page 30f5

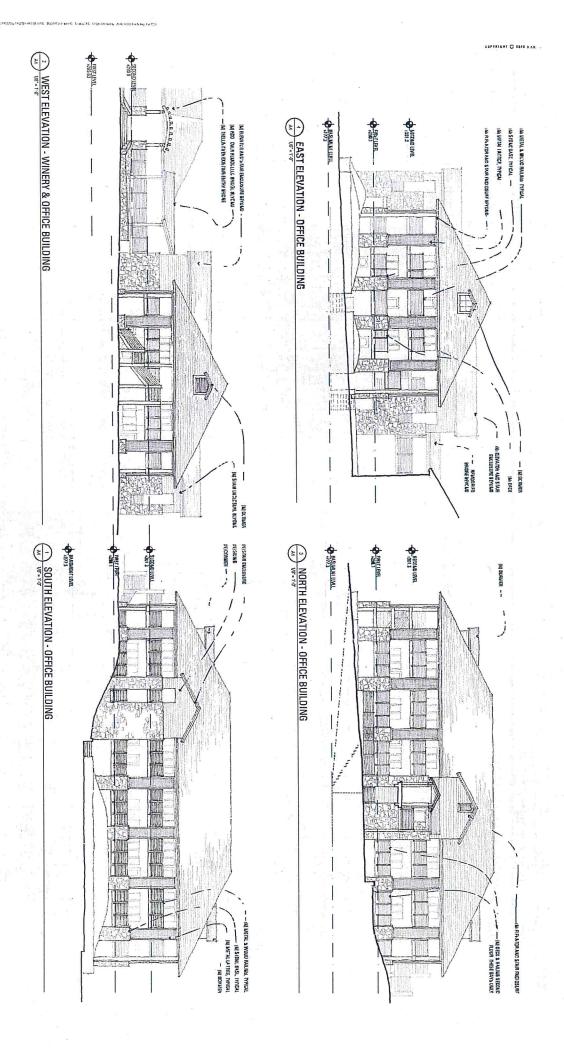


Exhibit A. page fars

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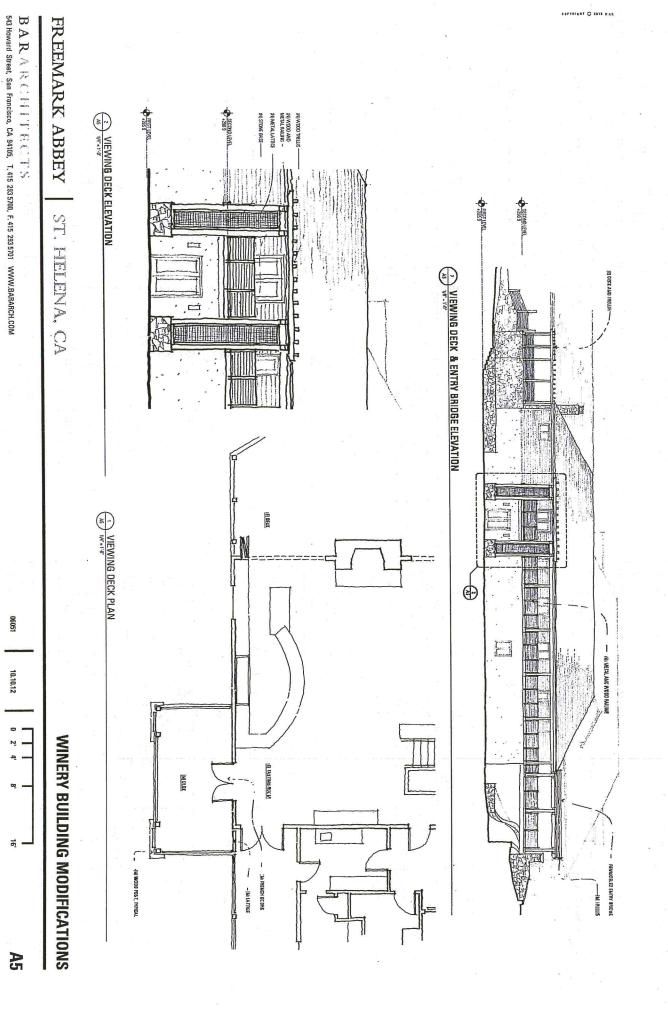
EXTERIOR ELEVATIONS

543 Howard Street, San Francisco, CA 94105, T. 415 293 5700, F. 415 293 5701 WWW.BARARCH.COM

BARARCHITECTS

FREEMARK ABBEY

ST. HELENA, CA



Frank A: Pagesofs

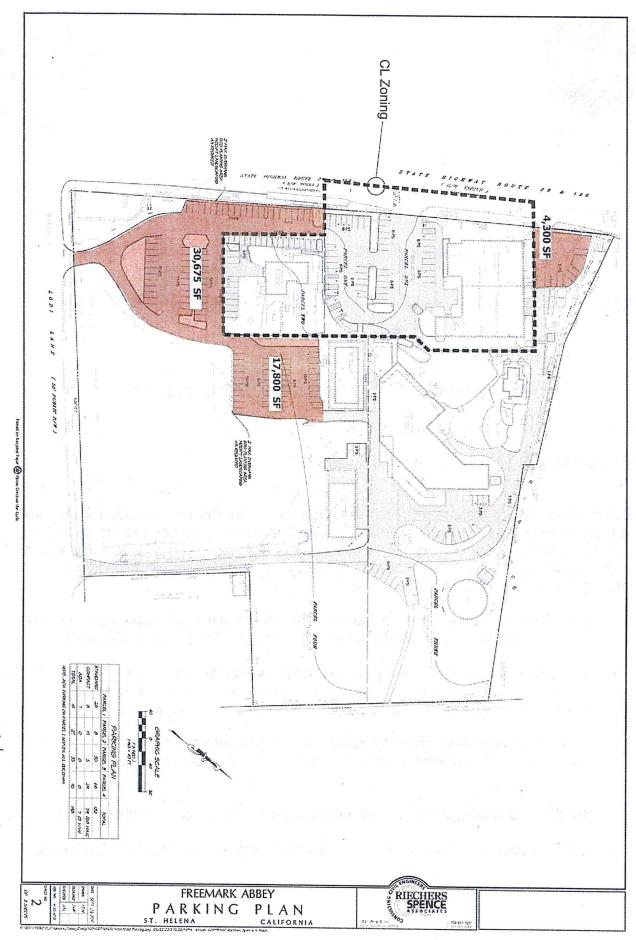
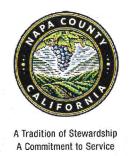


Exhibit B



Napa County Fire Department Fire Marshal's Office 1199 Big Tree Road St. Helena, CA 94574

> Office: (707) 967-1419 Fax: (707) 967-1474

> > Pete Muñoa Fire Marshal

INTER-OFFICE MEMORANDUM

TO:

Kirsty Shelton

Conservation, Development and Planning Department

FROM:

Brian Hampton

Fire Department

DATE:

October 17, 2012

P12-00359

APN# 022-130-021, 022, 023, 024

Subject:

Freemark Abbey Winery

SITE ADDRESS:

3022 ST Helena Highway

The Napa County Fire Marshal's Office has reviewed the Use Permit application to beautify, enhance accessibility and modify some of the locations of winery related uses for two of the existing primary buildings that make up a portion of the Freemark Abbey Winery. We would like the following comments and/or conditions to be incorporated as project conditions if the Planning Commission approves the project.

- 1. All construction and use of the facility shall comply with all applicable standards, codes, regulations, and standards at the time of building permit issuance.
- 2. The numerical address of the facility shall be posted on the street side of the building visible from both directions and shall be a minimum of 4-inches in height on a contrasting background. Numbers shall be reflective and/or illuminated.
- 3. Currently serviced and tagged 2A10BC fire extinguishers shall be mounted 31/2' to 5 feet to the top of the extinguisher within 75 feet of travel distance from any portion of the facility.
- 4. All exit doors shall open without the use of a key or any special knowledge or effort.
- 5. Install illuminated exit signs throughout per the California Building Code 2010 edition.

- 6. Install emergency back-up lighting throughout per the California Building Code 2010 edition.
- 7. Beneficial occupancy will not be granted until all fire department issues have been inspected, tested and finaled.
- 8. All fire sprinkler systems shall be extended into any tenant improvement areas for proper fire sprinkler coverage per NFPA 13, 2010 edition.
- 9. All fire alarm systems shall be extended into all tenant improvement areas for proper coverage per NFPA 72, 2010 edition.
- 10. Emergency evacuation signs shall be posted at all exit doors, elevator landings, & stairwells per Title 19/24. Contact the Napa County Fire Marshal's Office for proper detail and construction for the plans.
- 11. Building drawings shall be submitted to the Napa County Fire Marshal's Office for plan review and approval prior to building permit issuance.



A Tradition of Stewardship A Commitment to Service

RECEIVED

DEC 07 2012

NAPA CO. CONSERVATION DEVELOPMENT & PLANNING DEPT.

Planning, Building & Environmental Services

1195 Third Street, Suite 210 Napa, CA 94559 www.countyofnapa.org

> Hillary Gitelman Director

MEMORANDUM

To:	Kirsty Shelton, Project Planner	From:	Kim Withrow, Senior Environmental Health Specialist
Date:	Revised – December 6, 2012 October 26, 2012	Re:	Freemark Abbey Winery Use Permit Application, 3022 St. Helena Highway
			Assessor Parcel #022-130-021, -022, -023, & -024 File # P12-00359

The revised application requesting approval for the beautification and remodel of the winery and office/storage building including coverting existing kitchen spaces to commercial kitchens for food and wine pairings has been reviewed and this Division has no objection to approval of the application with the following conditions of approval:

- 1. The applicant shall secure a discharge requirement or waiver of same, from the San Francisco Regional Water Quality Control Board (SFRWQCB) for changes to the waste water system. Approval from SFRWQCB must be obtained prior to approval of a building clearance (or issuance of a building permit) for any structure that generates wastewater to be disposed of by this system.
- 2. A construction permit for all waste water system improvements, if any, must be secured from this Division prior to approval of a building clearance (or issuance of a building permit) for any structure that generates wastewater to be disposed of by this system.
- 3. Complete plans and specifications for the food preparation, service area(s), storage area(s) and the employee restrooms must be submitted for review and approval by this Division prior to issuance of any building permits for said areas. An annual food permit will be required.
- 4. During the construction, demolition, or renovation period of the project the applicant must use the franchised garbage hauler for the service area in which they are located for all wastes generated during project development, unless applicant transports their own waste. If the applicant transports their own waste, they must use the appropriate landfill or solid waste transfer station for the service area in which the project is located.

Cc: Blair Allen P.E., SFRWQCB, Blair.Allen@waterboards.ca.gov



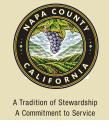
A Tradition of Stewardship

A Commitment to Service

Napa County Board of Supervisors

Inn at the Abbey Proposed Development Agreement Terms

P19-00038-MOD December 5, 2023



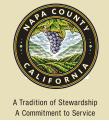
P19-00038-MOD (The Inn at the Abbey) is a Use Permit Major Modification which seeks approval to demolish three existing buildings and redevelop the site with a 79-room hotel, retail and hotel lounge space, a spa with treatment rooms, a main pool and a small plunge pool, an underground parking garage, a rooftop terrace, a fitness room, an outdoor lawn and gathering space, back-of-house uses, and on-site employee housing.

Application Submitted: February 2019

Notice of Preparation of an Environmental Impact Report issued: July 21, 2020

Planning Commission EIR Scoping Session: August 5, 2020



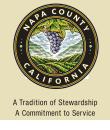


The 15-acre project is located across six parcels, one half mile north of the City of St. Helena at Lodi Lane and SR-29.

3 of the 6 parcels are either fully or partially zoned Commercial Limited (CL).

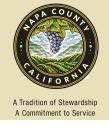
Properties are identified as parcels subject to General Plan policy AG/LU-45 (continued or expanded commercial activities on the commercial zoned portions will not be detrimental to Agriculture, Watershed or Open Space policies of General Plan)





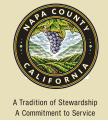
Applicant proposed terms with public benefit:

- 1. Onsite, affordable housing units for employees: Existing six market rate units to be deed restricted affordable for employees. Provides new affordable housing and reduced vehicles miles traveled (VMT). Applicant contends that restriction of rental rates represents property value of \$3.44 million over twenty years.
- 2. Affordable housing funding: Payment to County's affordable housing trust fund equal to three times current affordable housing fees that would otherwise apply to the project at the time of building permit issuance. Based on the current fees, the contribution would be \$1,580,000 to be paid in two equal payments at building permit issuance and five years after project occupancy. Funds would be made available for use by Napa County or a County designated affordable housing developer (e.g. Our Town St. Helena, Napa Valley Community Housing) for the development of affordable housing.
- 3. Vine Trail/Shelter Easements: In conjunction with the project application, Applicant has contributed easements for the Vine Trail and trail rest shelter without receiving compensation. Due to the timing of the Vine Trail grant process, the Vine Trail asked to grant these easements prior to Applicant receiving approval of the project.
- 4. Improve South Parcel agricultural lands to productive agricultural use: Proposal includes active agriculture on South Parcel's agriculturally zoned land that is currently fallow. Agricultural uses to consist of growing and harvesting but not processing of agricultural products. Agricultural use intended to provide "farm-to-table" experience for project food service and to educate hotel guests on Napa County's agricultural economy.



Applicant proposed terms benefiting applicant:

- 1. Applicant may modify site plan/building locations so long as total square footage and room count are not increased beyond what was approved as confirmed by PBES Director.
- 2. Applicant continues to use established/vested parking area documented in approved use permit P12-00359-VMM on the AW zoned parcel as shared parking for north and south parcel without intensification of use.
- 3. Fee credit against any future enacted transportation impact fee in amount equal to value of Vine Trail/Shelter easements and other transportation improvements.
- 4. Continued use by applicant of south parcel with historic/vested wastewater treatment system on AW lands for all south parcel uses (employee housing and commercial uses).
- 5. Allow hotel guests to tour model agricultural operations on AW lands south of Lodi Lane. Activities of tour guests limited to uses allowed under definition of "agriculture" in County Code (e.g. retail purchase of agricultural products produced onsite).



Requested Action

- Today's administrative hearing is not to review and consider the Applicant's Use Permit Major Modification Application or the environmental analysis in the forthcoming EIR.
- Staff seeks direction from the Board on the applicant's proposed Development Agreement Terms.
- Direction to Staff in preparing material terms for the Draft Development Agreement does not obligate the Board to approve the Development Agreement at a later time.
- Direction to Staff on material terms will allow Staff to complete the project's environmental analysis.
- Future hearings on this project will include:
 - Planning Commission hearing on the Draft Environmental Impact Report.
 - Planning Commission hearing on recommendations to the Board.
 - BOS hearing on the Use Permit Major Modification, certification of a Final EIR and approval of the proposed Development Agreement.



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Board of Supervisors **Agenda Date:** 12/5/2023 File ID #: 23-1686

Board of Supervisors TO:

Ryan J. Alsop, County Executive Officer FROM:

REPORT BY: Neha Hoskins, Clerk of the Board

PUBLIC EMPLOYEE PERFORMANCE EVALUATION **SUBJECT:**

RECOMMENDATION

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)

Title: Director of Corrections



Napa County

Board Agenda Letter

1195 THIRD STREET SUITE 310 NAPA, CA 94559 www.countyofnapa.org

Main: (707) 253-4580

Agenda Date: 12/5/2023 **Board of Supervisors** File ID #: 23-1972

TO: **Board of Supervisors**

FROM: Ryan Alsop, County Executive Officer

REPORT BY: Neha Hoskins, Clerk of the Board

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS

RECOMMENDATION

CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)

Agency Designated Representatives: Christine Briceño, Director of Human Resources

Employee Organization: SEIU 2015 (representing Napa County In-Home Support Services workers)

Town of Yountville Resolution Number 23-4233

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YOUNTVILLE
CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL
ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024, FOR THE SUBMISSION TO
THE VOTERS OF ONE QUESTION RELATED TO MEASURE U (INCREASE IN
APPROPRIATIONS (GANN) LIMIT) AND REQUESTING THE NAPA COUNTY BOARD OF
SUPERVISORS CONSOLIDATE AND RENDER SPECIFIED SERVICES TO THE TOWN
RELATING TO THE CONDUCT OF THE STATEWIDE PRIMARY ELECTION TO BE
HELD ON THE SAME DATE.

Recitals

- A. Section 1 of Article 13B of the California Constitution establishes the Town's total annual Appropriations Limit or "Gann" Limit. Section 4 of Article 13B of the California Constitution authorizes the Town's electorate to change the Town's Appropriations Limit, subject to and in conformity with constitutional and statutory voting requirements.
- B. Elections Code section 9222 authorizes the Town Council to call a special election for the purpose of submitting a Town-initiated proposition to the voters.
- C. Elections Code section 12001 requires the Town Council issue a proclamation or resolution to call a special local election.
- D. Elections Code section 1400 requires special elections be held on one of the established election dates set by Division 1 of the Elections Code or on the date of any statewide special election, except as provided in Elections Code section 1003. Elections Code section 1000 establishes March 5, 2024 as an established election date.
- E. Town staff recommends that the Town Council approve the holding of a Special Municipal Election on Tuesday, March 5, 2024, for the submission to the voters of one question related to Measure U (Increase In Appropriations (Gann) Limit).
- F. In accordance with Elections Code sections 340 and 1202, the Statewide Primary Election is to be held on March 5, 2024.
- G. Elections Code section 10418 authorizes the consolidation of statewide and special elections. Elections Code section 10403 requires the Town Council adopt a resolution to request the Napa County Board of Supervisors consolidate the Special Municipal Election with the Statewide Primary Election and to permit the County Registrar of Voters to perform certain services in conjunction with the Special Municipal Election.
- H. It is desirable that the Special Municipal Election be consolidated with the Statewide Primary Election to be held on the same date and that within the Town the precincts, polling places (vote centers), election officers, and ballot measures of the two elections be the same; that the Napa County Election Division canvass the returns of the consolidate election; and that the election be held in all respects as if there were only one election.

Resolution Number 23-4233

Now therefore, the Town Council of the Town of Yountville does resolve, declare, determine and order, as follows:

- 1. That all of the foregoing recitals are true and correct and incorporated herein by reference.
- 2 That, pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the Town of Yountville, Napa, County, California, on Tuesday, March 5, 2024 a Special Municipal Election.
- 3. That the Town Council, pursuant to its right and authority, does order submitted to the voters at the Special Municipal Election the following question:
 - A. That Measure U (Increase In Appropriations (Gann) Limit) is to appear on the ballot as follows:

	No
services, parks & recreation, police and fire emergency programs, shall the appropriations limit set by Article 13B of the California Constitution be increased by \$3,000,000 and the growth in TOT for each year commencing fiscal year 2022/2023 through fiscal year 2026/2027? By approving this appropriation limit, no new taxes are created nor will any existing tax be increased."	
"To fully utilize TOT and sales tax generated from visitors for public	Yes

- 4. That the proposed complete text of Measure U shall be printed in the voter information section of the sample ballot submitted to the voters.
- 5. That, pursuant to the requirements of Elections Code section 10403, the Napa County Board of Supervisors is hereby requested to consent and agree to the consolidation of a Primary Municipal Election with the Statewide Primary Election on Tuesday, March 5, 2024 for the purpose of submitting Measure U to the voters.
- 6. That the ballots to be used at the election shall be in form and content as required by law.
- 7. That the Town Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary to properly and lawfully conduct the election, and to perform all other acts necessary or required by law to implement this Resolution and related to the election.
- 8. For the purposes of said Election, the Town of Yountville is hereby divided into the following precincts: 3511660, 3511661, 3511662 and 3511663. The precincts shall be those used for the Statewide Primary Election and, where necessary, the Napa County Elections Official may adjust precinct lines to coincide with the boundaries of the jurisdiction.
- 9. That the polls (vote centers) for the election shall be open at 7:00 o'clock a.m. of the day of the election and shall remain open continuously from that time until 8:00 o'clock p.m. of the same day when the polls (vote centers) shall be closed.
- 10. That notice of the time and place of holding the election is given and the Town Clerk is authorized, instructed, and directed to give further or additional notice of the election, in the time, form, and

Resolution Number 23-4233

manner as required by law.

- 11. That the Town Clerk is directed to provide a copy of Measure U to the Town Attorney and the Town Attorney shall prepare an impartial analysis. The analysis shall not exceed 500 words in length and shall be filed in the Office of the Yountville Town Clerk, 6550 Yount Street, Yountville, California, no later than Friday, December 8, 2023 at 5:00 p.m. The Town Clerk shall immediately forward the impartial analysis as a Word document to the Napa County Registrar of Voters.
- 12. The Town Council wishes to establish deadlines for the filing of arguments for and against Measure U and to provide for rebuttal arguments as follows:
 - a Printed arguments shall be titled either "Argument In Favor Of Measure" or "Argument Against Measure." Arguments in favor of or in opposition to any measure may not exceed 300 words in length and shall be filed at the office of the Yountville Town Clerk, 6550 Yount Street, Yountville, California, not later than Friday, December 15, 2023 at 5:00 p.m.
 - b. Printed rebuttal arguments shall be titled either "Rebuttal; Argument In Favor Of Measure" and "Rebuttal Argument Against Measure". Rebuttal arguments for any measure may not exceed 250 words in length and shall be filed with the Office of the Yountville Town Clerk, 6550 Yount Street, Yountville, California, not later than Friday, December 22, 2023 at 5:00 p.m.
 - c. If more than one argument for or more than one argument against any Town measure is submitted, the Town Clerk shall select one of the arguments in favor and one argument against the measure, as set forth in Elections Code section 9287.
- 13. That the Napa County Board of Supervisors is requested to issue instructions to the Napa County Election Division to take any and all steps necessary for the holding of the consolidated election including printing and supplying ballots for the Special Municipal Election; mailing the Town's sample ballots to the voters of the Town as part of the material mailed to voters for the Statewide Primary Election; and perform other such services as may be required for the consolidation and conduct of the Special Municipal Election with the Statewide Primary Election.
- 14. That in all particulars not recited in this resolution, the Special Municipal Election shall be held and conducted as provided by law for holding municipal elections.
- 15. That the Napa County Election Division is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, in the manner prescribed in Elections Code section 10418, and only one form of ballot shall be used.
- 16. In accordance with Elections Code section 10410, the election precincts, polling places and voting booths shall, in every case, be the same, and there shall be only one set of election officers in each of the precincts.
- 17. The Town Council recognizes that additional costs will be incurred by the Napa County Election Division by reason of this consolidation. The Town shall reimburse the Napa County Election Division in full for the services performed upon presentation of a properly submitted itemized bill to the Town, as set forth in Elections Code section 10002.
- 18. That the Town Clerk is hereby directed to file a certified copy of this resolution with the Napa

Resolution Number 23-4233

County Board of Supervisors and the Napa County Election Division and issue instructions to the Napa County Election Division to take any and all steps necessary for the holding of the election.

- 19. That the adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code section 21000, et seq. ("CEQA") and 14 Cal. Code Reg. section 1500, et seq. ("CEQA Guidelines"). The calling of a Municipal Election is not a project within the meaning of CEQA pursuant to CEQA Guidelines section 15378, subsection (b)(4) [governmental fiscal activities which do not commit to any specific project] and section 15061, subsection (b)(3) [common sense exemption].
- 20. That the Town Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.
- 21. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Yountville, State of California, held on this 17th day of October 2023 by the following vote:

AYES: McKee-Cant, Knight, Reeves, Trippe, Mohler

NOES: None ABSENT: None ABSTAIN: None

Margie Mohler, Mayor

ATTEST:

DocuSigned by:

Eddy Gomez, Town Clerk