

AGREEMENT NO 250463B

AGREEMENT BETWEEN THE COUNTY OF NAPA AND THE NAPA COUNTY TOURISM CORPORATION CONCERNING ROLES AND RESPONSIBILITIES RELATING TO THE NAPA VALLEY TOURISM IMPROVEMENT DISTRICT

THIS AGREEMENT CONCERNING ROLES AND RESPONSIBILITIES RELATING TO THE NAPA VALLEY TOURISM IMPROVEMENT DISTRICT ("Agreement") is made and entered into as of this 16th day of June, 2025, by and between the County of Napa, a political subdivision of the State of California, hereinafter referred to as "County," and the Napa Valley Tourism Corporation, a California non-profit corporation, whose mailing address is 1001 Second Street, Suite 330, Napa, CA 94559, hereinafter referred to as "NVTC."

RECITALS

WHEREAS, the Property and Business Improvement Law of 1994, Streets and Highways Code § 36600 et seq., authorizes the County of Napa (County) to renew business improvement districts upon petition by a weighted majority of the business owners located within the boundaries of the district; and

WHEREAS, the Napa Valley Tourism Improvement District (NVTID) was established in 2010, for a five-year period, pursuant to the Property and Business Improvement Law of 1994; and

WHEREAS, the NVTID was renewed on June 10, 2014, by Napa County Board of Supervisors Resolution No. 2014-64, for a ten (10) year term ending on June 15, 2025 and was renewed again on December 17, 2024, by Napa County Board of Supervisors Resolution No. 24-142 for another ten (10) year term ending on June 15, 2035; and

WHEREAS, the NVTID provides a funding mechanism through the imposition of an assessment on eligible lodging businesses, applicable to gross revenue from short-term room rentals (30 days or less); and

WHEREAS, in accordance with the Property and Business Improvement Law of 1994, the assessments are required to be expended in accordance with the adopted NVTID Management District Plan ("MDP"), attached hereto as Exhibit A; and

WHEREAS, under the MDP, NVTID levies assessments on lodging businesses within the unincorporated area and within each of the cities and town in Napa County ("Jurisdictions") to fund valley-wide marketing and tourist-serving programs by placing a 2.0% assessment on the gross short-term (30 days or less) sleeping room rental revenue of all lodging establishments, as defined in the MDP, with the option to increase the assessment by a maximum of one half of one percent (0.5%) in years three (3), six (6), and nine (9) and provides that the total assessment rate may not exceed three percent (3%) of gross short-term sleeping room rental revenue; and

WHEREAS, the collection of the assessments mirrors the collection of transient occupancy tax (including any delinquencies, penalties, and interest) and is collected from each

lodging business located in the boundaries of the NVTID on all gross short-term sleeping room rental revenue, as defined in each jurisdiction's municipal/county code; and

WHEREAS, pursuant to the MDP, the Jurisdictions must remit to the Napa County Auditor-Controller 74% of the local collected assessment, and the County Auditor-Controller in turn must remit that amount to NVTC; and

WHEREAS, the MDP identifies NVTC as the Owner's Association responsible for managing funds, implementing programs, and providing annual reports on activities and expenditures, all in accordance with the MDP; and

WHEREAS, County and NVTC have entered into various agreements in the past with respect to operation of the NVTID and the roles and responsibilities of each of the parties; and

WHEREAS, under the MDP, NVTC contracts with the region's destination marketing organization to carry out the programs and services of the NVTID; and

WHEREAS, since the inception of the NVTID, NVTC has contracted with Visit Napa Valley to carry out the programs and services of the NVTID; and

WHEREAS, the Parties understand that NVTC entered into an agreement with Visit Napa Valley on June 12, 2025 to perform these duties for the period between June 16, 2025 through June 15, 2035;` and

WHEREAS, with the renewal of the NVTID, the Parties would like to clarify their roles and responsibilities.

NOW, THEREFORE, in consideration of the mutual covenants and conditions as set forth herein, and for other valuable consideration the sufficiency of which is hereby acknowledged, County and NVTC agree as follows:

AGREEMENT

1. **Incorporation of Recitals.** The Recitals set forth above are incorporated in full and made a part of this Agreement by this reference.
2. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 15, 2035, unless terminated earlier in accordance with the terms of this Agreement; except that the obligations of the parties under Section 5 (Insurance) and Section 6 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of NVTC to County shall also continue after said expiration date or early termination in relation to the obligations prescribed by Section 13 (Access to Records/Retention), Section 14 (Confidentiality) and Section 15 (Taxes).
3. **County Obligations.**

- a) County shall forward to NVTC seventy-four percent (74%) of the NVTID assessment collected, minus Napa County Auditor-Controller accounting and auditing fees.
- b) The Napa County Auditor-Controller will perform the following on behalf of the NVTID:
 - 1. Complete all necessary accounting transactions to record assessments received and to make payments to NVTC. NVTC shall forward these sums to Visit Napa Valley or successor destination marketing entity (hereinafter collectively “VNV”).
 - 2. Receive a copy of the quarterly financial reports and meeting minutes from the local governing committees.
 - 3. Participate in and attend audit committee meetings and review the annual financial audit of VNV.
 - 4. Within six months after fiscal year end, compile an annual financial compliance audit on behalf of NVTC.
 - 5. All expenses associated with fiscal transactions and audits on behalf of the assessment shall be borne by either NVTC or VNV.
 - 6. The Parties recognize that compensation from NVTID assessments is based on lodging occupancy and is subject to external forces and beyond the control of the County and that of the local jurisdictions collecting the assessments.

4. **NVTC Obligations.**

- a. NVTC shall serve as the NVTC Owners’ Association in accordance with the provisions of the MDP, the Property and Business Improvement District Law of 1994, and the Resolution renewing the NVTID.
- b. NVTC is charged with managing funds and implementing programs in accordance with the MDP.
- c. NVTC has entered into an agreement with Visit Napa Valley to perform various duties and tasks outlined in the MDP, including valley-wide destination marketing and sales, and accounting and reporting of assessment revenues and expenditures. The NVTC Board shall meet at least quarterly to review marketing and business updates from VNV.
- d. NVTC must review and adopt the annual budget prior to each new fiscal year, in a public meeting, with sufficient detail showing how the funds are planned to be spent in accordance with the MDP, clearly identifying the allocation of the assessment as follows:
 - 74% to Contractor, to be spent on destination marketing efforts outlined in the MDP and on administrative costs. NVTC shall establish a budget for all NVTC administrative costs, including but not limited to, all necessary clerical and legal services, in an amount not to exceed the greater of 1% of the gross NVTID assessment or \$100,000. If NVTC’s actual costs of administration, clerical, and legal functions exceed the budgeted amount for that fiscal year, the NVTC and VNV shall meet and confer on an amended budget that shall be presented to the NVTC Board for its approval;

- 1% to jurisdiction treasurers for collection costs; and
- 25% to local governing committees.

e. NVTC must ensure that VNV and local governing committees are following the approved budgets, adjusted by publicly approved amendments, if any. This task includes requiring VNV and local governing committees to submit the following to NVTC:

- quarterly financial reports with detailed explanations of the actual expenditures, with annual quantitative performance metrics;
- meeting minutes of each local governing committee's meeting that clearly provide decisions regarding budget amendments, funding decisions to third parties, and any variances to the local governing committee's adopted plan for that fiscal year; and
- One or more NVTC Board members should frequently attend meetings of each local governing committee and VNV.

f. NVTC shall ensure that if the executive director of VNV holds a position on the NVTC Board, that position will be a non-voting member position.

g. NVTC must compile, in conjunction with VNV and the Napa County Auditor-Controller, an annual report for presentation to the Napa County Board of Supervisors, as required by the MDP.

h. NVTC must comply with all tax and other required reporting and submissions, as required by Federal and State laws.

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

a) Workers' Compensation insurance. To the extent required by law during the term of this Agreement, NVTC shall provide workers compensation insurance for the performance of any of NVTC's duties under this Agreement as required by the State of California with statutory limits, and employer's liability insurance with a limit of no less than Two Million Dollars (\$2,000,000) per accident for bodily injury or disease, all with a waiver of subrogation. NVTC shall provide County with certification of all such coverages upon request by County's Risk Manager.

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

1. General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of NVTC or any officer, agent, or employee of NVTC under this Agreement. If the

coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

2. Directors and Officers Liability/Errors and Omissions. Directors and Officers Liability coverage in an aggregate limit of not less than Two Million Dollars (\$2,000,000).

3. Comprehensive Automobile Liability Insurance. NVTC shall maintain comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with NVTC's business of not less than One Million Dollars (\$1,000,000).

4. The Napa County Risk Manager is authorized to make exemptions to the insurance requirements set forth in this Section 5.

c) Certificates. All applicable insurance coverages referenced 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 NVTC with the County's Risk Manager prior to commencement of performance of any of NVTC's duties; shall reference this Agreement by its County number or title and department; shall be kept current during the term of this Agreement; shall provide that County shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability. Upon request by County's Risk Manager, NVTC 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) For the commercial general liability insurance coverage referenced in subparagraph b.1 and, for the comprehensive automobile liability insurance coverage referenced in subparagraph b.3 where the vehicles are covered by a commercial policy rather than a personal policy, NVTC shall—and shall require any subcontractor-- file with the evidence of coverage an endorsement from the insurance provider naming Napa County, its officers, employees, agents, and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, NVTC and its subcontractor(s) shall file an endorsement waiving subrogation with the evidence of coverage.

e) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, County's Risk Manager, which approval shall not be denied unless the County's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of NVTC 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 NVTC shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

e) Subcontractors: When applicable, subcontractors performing work on behalf of NVTC shall procure and maintain policies of insurance equal to those required of NVTC, as provided in this Section 5, and sufficient to provide coverage for that subcontractor's work in relationship to this Agreement. Unless previously exempted in writing by the Napa County Risk

Manager, NVTC shall require these subcontractors to comply with all the provisions of this Section 5 (Insurance) and shall include these insurance provisions in its agreements with the subcontractor. NVTC shall not authorize performance by a subcontractor under this Agreement until it has confirmed that subcontractor has provided all insurance certificates and endorsements required and described herein.

6. **Indemnification and Hold Harmless.** To the fullest extent permitted by law, NVTC shall defend at its own expense, indemnify, and hold harmless County and its officers, agents, employees, volunteers, and representatives from any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind and description, including litigation costs and reasonable attorney's fees, for personal injury (including death) or damage to property, arising from all acts or omissions of NVTC or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services and performing the duties under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses to the extent arising from the active or sole negligence or willful misconduct of County. 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. This Section 6 shall survive termination or expiration of this Agreement and continue in effect so long as a viable claim may exist.

7. **Termination for Cause.** This Agreement may be terminated by County upon a finding that NVTC has misappropriated funds, committed malfeasance, or committed a violation of law in connection with its management duties under this Agreement, including violations of the NVTID Management District Plan. County's right to terminate shall arise after a public hearing held in procedural compliance with the requirements of Streets and Highways Code Section 36670, with a written statement of the reasons for termination of this Agreement.

8. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

Napa County
Attn: Napa County Executive Officer
1195 Third Street, Ste. 310
Napa, CA 94559

Napa Valley Tourism Corporation
Attn: Board Chair
1001 Second Street, Suite 330
Napa, CA 94559

With a copy to:

Richard D. Pio Roda, Esq.
Redwood Public Law LLP
409 13th Street, Suite 600
Oakland, CA 94612

9. **Compliance with Laws.** NVTC shall comply and shall require the VNV to comply, with all laws, ordinances, regulations, and policies of federal, California, and local governments applicable to this Agreement. NVTC shall comply immediately with all directives issued by County or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations.

10. **Compliance with County Policies.** NVTC shall comply, and shall require VNV to comply, with the following policies, copies of which are available on County's website at <https://www.countyofnapa.org/771/Purchasing> and are hereby incorporated by reference.

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

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

Napa County "Drug and Alcohol Policy," which is found in the Napa County Policy Manual Part I, Section 37O.

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

Napa County "Workplace Violence Policy," which is found in the Napa County Policy Manual Part I, Section 37U.

11. **Conflict of Interest.**

(a) NVTC acknowledges that it is aware of the provisions of Government Code sections 1090, et seq., and sections 87100, et seq., relating to conflict of interest of public officers and employees. The parties further acknowledge that pursuant to Streets and Highways Code section 36614.5, neither NVTC nor its board members or staff are a public entity or public officials so as to be subject to such provisions when acting on behalf of NVTC.

(b) Statements of Economic Interest. NVTC acknowledges and understands that County has developed and approved a Conflict of Interest Code as required by state law which requires NVTC to file with the Elections Division of the Napa County Assessor-Clerk Recorder "assuming office", "annual", and "leaving office" Statements of Economic Interest as a "consultant", as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, unless it has been determined in writing that NVTC has been hired to perform a range of duties so limited in scope as to not be required to fully comply with such disclosure obligation. By authorizing its Chair to execute this Agreement on its behalf, County's Board of Supervisors hereby determines in writing on behalf of County that NVTC has been hired to perform a range of duties so limited in scope, and has been engaged pursuant to the Property and Business Improvement District Law of 1994, as to not be required to comply with such disclosure obligation.

12. **Independent Contractor.** NVTC, and its subcontractors, are independent contractors and not agents of the County. Any provisions of this Agreement that may appear to give County any right to direct Consultant concerning the details of performing the scope of services, or to

exercise any control over such performance, shall mean only that NVTC shall follow the direction of County concerning the end results of the performance.

13. **Access to Records/Retention.** NVTC shall provide County with access to NVTC's records which are reasonably necessary for County to review or audit NVTC's compliance with the provisions of this Agreement. NVTC shall provide such access within 10 business days after written request by County, either by providing copies of the requested records to County or allowing County to inspect and photocopy the records at NVTC's place of business where the records are kept. NVTC shall maintain all records related to this Agreement for at least four years after expiration or termination of this Agreement.

14. **Confidentiality.** Confidential information is defined as all information disclosed to NVTC which relates to County's past, present, and future activities, as well as activities under this Agreement. NVTC shall hold all such information as NVTC may receive, if any, in trust and confidence, except with the prior written approval of County, expressed through its County Executive Officer or designee, or if the confidential information is subject to the Public Records Act (Government Code section 7920 et seq.). Upon cancellation or expiration of this Agreement, NVTC shall return to County all written and descriptive matter which contains any such confidential information, except that NVTC may retain for its files a copy of NVTC's work product if such product has been made available to the public by County.

15. **Taxes.** NVTC agrees to file or shall cause to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. NVTC 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 NVTC'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, NVTC agrees to furnish County with proof of payment of taxes or withholdings on those earnings.

16. **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.

17. **Attorney's Fees.** If either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action. This Section does not apply to attorney's fees or costs incurred during mediation.

18. **Venue.** This Agreement is made and entered into in Napa County, California. 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. 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 shall be in the Northern District of California.

19. **Severability.** Should any provision of this Agreement be held invalid or illegal by a court of competent jurisdiction, such invalidity or illegality shall not invalidate the whole of this Agreement, but rather, the Agreement shall be construed as if it did not contain the invalid or illegal provision, and the rights and obligations of the parties shall be construed and enforced accordingly, except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely impact either or both parties' consideration for entering into this Agreement.

20. **Amendment/Modification.** This Agreement may be modified or amended only in writing and with the prior written consent of both parties.

21. **Entirety of Contract.** This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations, whether written or oral, among the parties with respect to the subject matter hereof.

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

Napa Valley Tourism Corporation, a California
non-profit corporation

By _____
Sara Brooks, Vice Chair of NVTC

Approved as to form:
Counsel for NVTC

By: _____
Richard D. Pio Roda

COUNTY OF NAPA, a political subdivision of
the State of California

By _____
Amber Manfree, Vice- Chair
of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: S. Darbinian</p> <p>Date: September 3, 2025</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date:</p> <p>Processed By:</p> <p>_____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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EXHIBIT A

MANAGEMENT DISTRICT PLAN