



A Tradition of Stewardship
A Commitment to Service

Request for Proposal

Farmworker Housing & Community Needs Assessment

RFP Number: DHHS012301

Release Date: January 3, 2023
Due Date: February 6, 2023

For information: Alex Carrasco
Housing & Homeless Services
Staff Service Analyst
2751 Napa Valley Corporate Drive Bld B.
Napa, CA 94558
alex.carrasco@countyofnapa.org

A. Purpose

The Napa County Department of **Housing & Homeless Services (DHHS)** is issuing this Request for Proposal (RFP) to conduct a housing and community needs assessment for the farmworker labor force working in Napa County. The goal is a user-centered understanding of barriers to accessing safe, affordable housing and necessary services for farmworker individuals and families and the unique needs of this population sub-set.

The Farmworker Housing & Community Needs Assessment seeks to uncover the hidden barriers that prevent farmworker families and individuals from both:

1. Living in Napa County in safe, stable housing; and,
2. From accessing the services they determine are necessary to meet their needs, through either brick-and-mortar resource centers or mobile centers that reach them where they live and work.

Census and labor force data reveal an annual Agricultural Industry labor force of roughly 5,500 workers, earning an average of \$60,000 per year (*Lightcast Q3 2022 Data Set from Workforce Alliance of the North Bay). Further, of the approximately 15,500 businesses in Napa County, less than 5% employ more than 50 people, leaving workforce housing and on-sight social services to be unlikely to be economically possible for local businesses to provide directly. Therefore, solutions to address the unique housing and services needs of this critical labor group must come through public and private sector entities working together based on a shared understanding of what is needed.

The 2023 Napa County Farmworker Housing & Community Needs Assessment will examine the scope of housing and services needs from three standpoints:

1. From the standpoint of the farmworkers working or living in Napa County to understand the barriers that prevent access to safe, affordable housing units and services; and
2. The standpoint of farm labor employers to examine both the impacts of housing insecurity and/or housing scarcity as well as lack of services or service limitations have on Napa County agriculture as an Industry.; and
3. The standpoint of the role of H2A Visa workers and the impact the H2A program will have on the make-up and housing and services needs of seasonal farm labor over the coming five years.

The study should leverage existing data, including recent health needs assessments: Bureau of Labor Statistics May 2021 Agricultural Worker Data, and local Community Health Needs Assessments (CHNA) and Improvement Plans (CHIP): 2019 Adventist Health St. Helena CHNA, 2020 Queen of the Valley Medical Center (QVMC) CHNA, 2021-2023 QVMC CHIP, 2022 Kaiser Napa-Vallejo CHNA, and the 2019 Napa Community Organizations Active in Disasters Language Access Plan.

The end goal of the study is a blueprint of housing and community service needs for the farmworker labor force for the next five years and innovative solutions to address those needs in Napa County.

B. Term of Contract and Scope of Work

Term of contract is anticipated to be one (1) year. See Attachment B for full scope of work.

C. Schedule of Events*

January 3, 2023	Request for Proposal released.
January 12, 2023	Questions Due prior to 5:00 pm pt
January 19, 2023	Responses to questions will be published
February 6, 2023	Proposals due prior to 5:00 pm pt
February 7-February 16, 2023	County review period & Negotiations.
February 17, 2023	Intent to Award Notifications sent out.
February 28, 2023	Contract approval and contract start date.

*These dates may be changed at the discretion of Napa County. Changes to the due date for questions or due date for proposal submittal will be made by written addendum.

D. Submission Process

Respondents shall submit in a sealed envelope five (5) signed original RFP and one (1) copy via USB drive to:

Alex Carrasco
Housing & Homeless Services Analyst
2751 Napa Valley Corporate Drive Bld B.
Napa, CA 94558

Sealed envelope containing original signed RFP and copies should be marked as follows:
“Farmworker Housing & Community Needs Assessment RFP, Number DHHS012301”

Proposals received in the Department of Housing & Homeless Services after February 6, 2023, at, or after, 5:00 p.m. pacific time will not be considered under any circumstances and will be returned to the sender.

Proposals may be delivered in person, U.S. Mail, or Common Currier. No electronic or facsimile copies will be accepted. It is the responsibility of the submitting party to insure timely delivery.

It is recommended that Proposals be submitted on paper that contains at least 30% recycled content and printed on both sides (duplex).

Proposals must be submitted following the format provided in this RFP. RFPs not submitted in the manner prescribed herein will not be considered.

E. General Conditions

By submitting a Proposal, the Respondent represents and warrants that:

- (a)The information provided is genuine and not a sham, collusive, or made in the interest or in behalf of any party not therein named, and that the Respondent has not directly or indirectly induced or solicited any other respondent to put in a sham proposal, or any other respondent to refrain from presenting information and that the prospective provider has not in any manner sought by collusion to secure an advantage; and
- (b)The Respondent has not paid or agreed to pay any fee or commission, or any other thing of value contingent upon the award of an exclusive operating area, to any employee, official, or existing contracting consultant of the County.

This solicitation and related information can be found at www.countyofnapa.org/procurement. Napa County does not guarantee the accuracy of information posted on or obtained from third party organizations.

All Proposals become the property of the County. The County reserves the right to reject any and all submittals; to request clarification of information submitted; to request additional information from competitors; and to waive any irregularity in the submission and review process. None of the materials submitted will be returned to the Respondent unless they are not submitted in a timely manner.

Proposals will become a public record and available for release to the public upon selection of a successful Respondent and an Intent to Award Notification is distributed. Respondents shall specify in their cover letter if they desire that any portion of their Proposal be treated as proprietary and not releasable as public information. If Respondent chooses to claim any information as proprietary, it must specify those sections in the cover letter and provide any legal justification for treatment as such. However, respondents should be aware that all such requests may be subject to legal review and challenge. In such event, each Respondent shall be responsible for the legal defense against the release of their Proposal as public information.

The County reserves the right to award an agreement without further competition based on the responses received to this RFP.

The County reserves the right to request additional information not included in this RFP from any or all Respondents after proposal due date.

The County reserves the right to contact references not provided in the submittals.

The County reserves the right to incorporate its standard language into any contract resulting from this solicitation. The County's contract template is attached for reference. Templates are attached for reference only and do not need to be signed or returned with proposal.

The County reserves the right to reject any and all Proposals or any part of a Proposal if it is determined it is not in the best interest of the County

The County reserves the right to reject the proposal of any submitter who previously failed to perform properly, or complete on time, contracts of a similar nature, or to reject the Proposal of a respondent who is not in a position to perform such a contract satisfactorily. The County may reject the Proposal of any respondent who is in default of the payment of taxes, or other monies due to Napa County.

An individual who is authorized to bind the proposing agency contractually shall sign the Proposal. The signature must indicate the title or position that the individual holds in the firm. **An unsigned Proposal shall be rejected.**

F. Security and Privacy.

Any persons entering a Napa County building may be required to complete a privacy declaration form.

G. Modification or Withdrawal

Any modification, amendment, addition, or alteration to any submission must be presented, in writing, executed by an authorized person or persons, and submitted prior to the final date for submissions. An individual who is authorized to bind the submitting agency contractually shall sign the modification, amendment, addition, or alteration. The signature must indicate the title or position that the individual holds in the firm. An unsigned modification amendment, addition, or alteration shall be rejected.

NO AMENDMENTS, ADDITIONS OR ALTERATIONS WILL BE ACCEPTED AFTER THE TIME AND DATE SPECIFIED AS THE SUBMISSION DEADLINE UNLESS REQUESTED BY THE COUNTY.

At any time prior to the specified time and date set for the Proposal due date, a designated representative of the responding agency may withdraw the submission provided that such person provides acceptable proof of his or her identity and such person signs a receipt. No submissions may be withdrawn or returned after the date and time set for final submission.

H. Information Resource

Question about this RFP shall be submitted via email and be referred to:

Alex Carrasco
alex.carrasco@countofnapa.org

Questions will not be answered that would tend to constitute an evaluation of a response being prepared or that might give an unfair advantage to a potential respondent. Except for the above named, potential respondents should not contact Napa County officials or staff regarding any aspect of this RFP. If such contact is made, the County reserves the right to reject the Proposal.

No prior, current, or post award verbal conversations or agreements with any officer, agent, or employee of the County or any other person or entity shall affect or modify any terms or obligations of this RFP or any agreement resulting from this process.

I. Organization of Proposal

Proposals shall contain the following information and shall be organized in the same order as provided herein. Each of these section headers shall be listed in submitted proposal with pertinent information provided under the specific header:

Interested firms should review Attachment A (Company history, Experience & Qualifications) and Attachment B (Farmworker Housing Needs Scope of Services) in consideration of response.

1. Cover Page. Cover page shall state Title and RFP number (Farmworker Housing & Community Needs Assessment, RFP Number DHHS012301) date of submission; and name and signature of the person who is authorized to make decisions and represent the submitting firm with respect to this RFP.
2. Company Information. This section shall state on one page:
 - a. The legal name of the company which can enter into a contract with the County and any alternate names for which the company is known (D.B.A.);
 - b. Mailing, and physical address(es);
 - c. Remit-to billing address;

- d. Phone, fax, and website (if applicable);
 - e. Organization type;
 - f. Federal I.D. number
 - g. List of owners;
 - h. List of corporate officers with titles (if applicable); and
 - i. Name (first and last), title, mailing address, phone number, fax and email of the person to receive notices and who is authorized to make decisions or represent the company with respect to this RFP
3. Company History, Experience, Qualifications. This section shall consist of the information requested in Attachment A to allow for review of company history, experience, qualifications. **Limit two pages.**
 4. Approach to Scope of Work. See Attachment B. This section shall consist of description of offered services and approach to the Scope of Work. **Limit eight pages.**
 5. Pricing Information/Structure. This section shall communicate your proposed price for required services on a single page.
 6. References. Provide 3 references (company, contact, phone number, date(s) and description of service(s) provided) on a single page. References should be entities for which similar work has been completed.
 7. Disclosures. A complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or a verification of no responsive incidents. Failure to comply with the terms of this provision may disqualify any proposal. The County of Napa reserves the right to reject any proposal based upon the Proposer's prior history with the County of Napa or with any other party, which documents, without limitation, unsatisfactory performance, significant failures to meet contract milestones or other contractual failures.

If there are no disclosures to report, this section must still be included in submittal with an indication that there are no reportable disclosures.
 8. Insurance Requirement. This section shall contain a written statement indicating proposer's willingness and ability to meet all of the County's insurance requirements as indicated in Attachment D, Section 7 on a single page.

Respondents who are unable to meet all of the County's insurance requirements may submit with their proposal an alternative plan for obtaining insurance that will adequately mitigate the risks associated with providing the services detailed above. Any alternative insurance coverage request is subject to review and approval by County Counsel and the County's Risk Management Officer.

Failure to meet the County's insurance requirements (as determined by County Counsel and County Risk Management) may be sufficient reason for disqualification from the selection process.
 9. RFP Addenda, if any. Any and all addenda shall include an acknowledgment of receipt that must be returned. The acknowledgement form must be signed and attached to the final response. Failure to attach any acknowledgement form may result in the rejection of the final response (See section L).

All information provided as a response to this RFP should be in the context of the information requested in the RFP. Please do not submit additional flyers, brochures, marketing material, etc.

J. Evaluation Process.

An evaluation team will rank the proposals received in accordance with the terms of this RFP in the following manner:

Company History, Experience, and Qualifications See Attachment A; 25 points

Approach to Scope of Work. See Attachment B – 50 points

Pricing / Rate Proposal – 25 points

K. Award

The County intends to award a contract to the firm who distinguish themselves as capable of the type and breadth of services provided for in Attachment A as evident in submitted Proposal. Selection and determination of qualifications is at the sole discretion of the County.

The County will attempt to negotiate a contract with the firm submitting the top ranked Proposal. If no contract can be successfully negotiated with the top ranked respondents, then the County may, at its election enter into negotiations with the next highest ranked respondent; and move down the list of respondents in order of scoring until a contract can be negotiated.

Upon selection of qualified respondent, completion of successful negotiations, and distribution of the “Intent to Award Notification” has taken place, the contract will be presented to the appropriate authority level for authorization.

The County reserves the right to decline awarding a contract to any of the Respondents.

L. Protests or Objections

1. Filing of Protest

Any directly affected party who is aggrieved in connection with the solicitation or award of a purchase order or contract issued through a formal sealed bid procedure may protest the procurement action taken. Such protests must be filed in writing with:

County of Napa
Purchasing Agent
1195 Third Street, Room 310
Napa, CA 94559

Protests must be filed in writing within five (5) working days from the time of the occurrence generating the protest. Protests received after this time will not be considered. Any protest shall include the following information:

(a) The date and action taken resulting in a protest, and

(b) Identification of the material issue, including a detailed explanation of the basis for the protest, and the remedy sought. Specification related protests must be fully supported by technical data test results, or other pertinent information, that the substitute offered is equal to or better than the specification requirement.

2. Resolution Process

(a) **Informal Resolution.** Upon receipt of protest, the Purchasing Agent will convene, at the earliest possible convenience, discussions between the protesting party and appropriate County staff to seek informal resolution and/or to clarify the issues.

(b) **Response to Protest/Appeal.** If the protest is not resolved by mutual agreement, the Purchasing Agent shall provide a written response to the protesting party within fifteen (15) working days following the informal meeting. County Counsel shall be consulted before the written response is issued.

(c) The response shall state the Purchasing Agent's decision, the facts supporting the decision, and shall inform the protesting party of its right to appeal the decision to the Board of Supervisors.

3. Appeal to the Board of Supervisors

(a) In the event the informal resolution procedure is unsuccessful, the protesting party may request an appeal hearing before the Board of Supervisors by filing a written request with the Clerk of the Board no later than five (5) working days after notification of the Purchasing Agent's decision. Any appeal hearing shall be scheduled within thirty (30) working days from the date request is received by the Clerk of the Board. The Clerk of the Board shall notify the appellant by personal service of the scheduled hearing date not less than ten (10) working days from the date of hearing.

(b) The appellant shall have the right to testify at the hearing, to be represented by counsel, to present witnesses on his behalf, and to present oral and written documents and evidence on the issue.

(c) After the conclusion of the hearing, the Board of Supervisors shall make findings of fact and a decision concerning the issue(s).

Stay of Procurement Action During a Protest

In the event of a timely protest under this section, the County shall not proceed further with the solicitation or the award of the contract or purchase order until the protest is resolved, unless the Purchasing Agent, in consultation with the head of the using department and County Counsel, makes a written determination that the award of the purchase order or contract without further delay is necessary to protect a substantial interest of the County.

M. RFP Addenda.

Any changes to the RFP requirements and answers to questions submitted pursuant to the provisions of this RFP will be made by addendum. All addenda shall include an acknowledgment of receipt that must be returned. The acknowledgement form must be signed and attached to the final response. Failure to attach any acknowledgement form may result in the rejection of the final response. Addenda will be provided to all known interested firms and posted on the County website.

N. Local Vendor Preference.

Napa County has a local vendor preference which covers the acquisition of requested services. Local vendors will be awarded contracts for services where qualifications are determined by the reviewing panel to be otherwise equal; unless such preference is not allowable by law. For this matter, a local vendor is a vendor who has a billing address located within Napa County. Where appropriate, out of county vendors are encouraged to subcontract with qualified local vendors.

P. Attachments.

- A. Company History, Experience, Qualifications – 2 pages max
- B. Farmworker Housing & Community Needs Assessment Project Description and Approach to Scope of Services – 8 pages max
- C. Pricing/Rate Proposal – 1 page max
- D. Professional Services Agreement (PSA) Example

ATTACHMENT A

COMPANY HISTORY, EXPERIENCE & QUALIFICATIONS

1. Please provide a description and brief history/background of your company. Included in this should be the number of years in business; list of owners; board of directors, if applicable; key company personnel; number of total employees (both company wide and those working out of the office, warehouse, or depot from where services for this contract will originate); and number of staff who provide housing research, analysis, and reporting (both company wide and those working out of the office, warehouse, or depot from where services for this contract will originate). **(5 Points)**
2. Please describe background, experience, qualifications, technical capabilities, training programs, safety programs, and expertise providing housing research, analysis, and reporting services. Experience and qualifications of key field personnel should be included. A description of your customer service approach and process, should also be included. Any current or past contracts with government agencies can be listed and described in this section. Licensing and certification shall also be described in this section. **(15 Points)**
3. Please describe any environmentally sustainable business practices that your company utilizes, whether in the office or in the field. **(5 Points)**

Maximum 2 Pages.

ATTACHMENT B

FARMWORKER HOUSING & COMMUNITY NEEDS ASSESSMENT SCOPE OF SERVICES

1. Please provide a detailed description of the scope of services proposed to accomplish the Farmworker Housing Needs Assessment based on the full Project Description and required Outputs included below. This Section shall also include a detailed description of the offered services and approach to the Scope of Work. Attention to the details provided in Attachment B – Scope of Work should be considered with your response. Maximum 4 pages. **(50 Points)**

Project Description

Napa County Division of Housing & Homeless Services is seeking innovative and qualified research organization(s) to conduct a Farmworker Housing & Community Needs Assessment for the farmworker labor force working in Napa County. The goal is a user-centered understanding of barriers to accessing safe, affordable housing for farmworker individuals and families and understanding of the unique needs of this population sub-set.

The Farmworker Housing Needs Assessment seeks to uncover the hidden barriers that prevent farmworker families and individuals from both:

1. Living in Napa County in safe, stable housing; and,
2. From accessing the services they determine are necessary to meet their needs, through either brick-and-mortar resource centers or mobile centers that reach them where they live and work.

Census and labor force data reveal an annual Agricultural Industry labor force of roughly 5,500 workers, earning an average of \$60,000 per year (Lightcast Q3 2022 Data Set from Workforce Alliance of the North Bay). Further, of the approximately 15,500 businesses in Napa County, less than 5% employ more than 50 people, leaving workforce housing to be unlikely to be economically possible for local businesses to provide directly. Therefore, solutions to address the unique housing needs of this critical labor group must come through public and private sector entities working together based on a shared understanding of what is needed.

The Napa County Farmworker Housing & Community Needs Assessment will examine the scope of housing and services needs from three standpoints:

1. From the standpoint of the farmworkers working or living in Napa County to understand the barriers that prevent access to safe, affordable housing units and services; and
2. The standpoint of farm labor employers to examine both the impacts of housing insecurity and/or housing scarcity as well as lack of services or service limitations have on Napa County agriculture as an Industry.; and
3. The standpoint of the role of H2A Visa workers and the impact the H2A program will have on the make- up and housing and services needs of seasonal farm labor over the coming five years.

The study should leverage existing data, including recent health needs assessments: Bureau of Labor Statistics May 2021 Agricultural Worker Data, and local Community Health Needs Assessments (CHNA) and Improvement Plans (CHIP): 2019 Adventist Health St. Helena CHNA, 2020 Queen of the Valley Medical Center (QVMC) CHNA, 2021-2023 QVMC CHIP, 2022 Kaiser Napa-Vallejo CHNA, and the 2019 Napa Community Organizations Active in Disasters Language Access Plan.

The end goal of the study is a blueprint of housing and service needs for the farmworker labor force the next five years and innovative solutions to address those needs in Napa County.

Project Requirements:

- Ensure Farmworkers, inclusive of the broad based racial/ethnic/cultural/gender identity/sexual orientation and linguistic minority groups working in agriculture in Napa County, are primary participants in the needs assessment process. The assessment process shall include stakeholder key-informant interviews, focus groups and written survey responses from primary participants as well as industry stakeholders, including a minimum participation of 500 farmworkers living and/or working in Napa County as first-hand participants.
- Ensure data collected is across the lifespan, including those of children/farmworker families and older adults. In addition, research should also include data on:
 - Farmworker labor trends in Napa County including labor shortages, permanent vs seasonal laborers, wage, commute, employer (distinction between labor contractor and wineries or growers), impacts of mechanization and/or vineyard management practices.
 - Current housing conditions including homeownership, rental, shared living arrangements, public vs. private farm worker housing, and farmworkers experiencing homelessness or acute housing insecurity.
 - Project future housing needs (families, migrant/seasonal/permanent unaccompanied individuals).
 - Assessment of languages other than English and Spanish that need to be accommodated by service providers and housing Centers.
 - Services and Activity gaps based on the identified needs of the farmworker population and the currently available services through either brick-and-mortar resource centers, employers, or mobile centers reaching farmworkers where they live and work.
- Form a Steering Committee and support in person and virtual meetings with committee to guide data collection progress, outreach activities and next steps.
- Utilize mobile data collection to maximize outreach and partner participation with surveys using electronic tablet and phone-based apps for field data collection.
- Conduct and make equally available all surveys, interviews and focus groups in English and Spanish. The use of a translator/simultaneous translation in otherwise English-spoken sessions in lieu of hosting equivalent focus groups or interviews conducted in Spanish is not an acceptable alternative.
- Provide all Quantitative and Qualitative Outputs described below in both English and Spanish.
- Detailed budget and project timeline
 - Ability to meet project timeline: April – August 2023: Assessment and analysis
 - September 2023: Draft report due
 - November 2023: Final report due
 - January – February 2024: Presentation to Board of Supervisors

Quantitative Project Outputs

- Size and demographic data for the Napa County permanent employed farmworker labor force, including age, gender, family size, etc.
- Size and demographic make-up for the Napa County seasonal farmworker labor force, including age, gender, identity, family size, etc.
- Language assessment of at least 500 farmworkers, and additional members of their family (in excess of 500 farmworkers), to identify primary and secondary languages spoken in Napa County, including indigenous languages.

- Summary of number of acres of all agricultural-use farmland (including but not exclusively planted vineyard acres) currently in production with a five-year forecast based on historical trends.
- Number of public and private farmworker housing beds available in Napa County, including the number of seasonal farm workers under an H2A Visa in employer-sponsored housing.

Qualitative Project Outputs

- Using survey response data, an estimate of the current annual number of Napa County farmworkers seeking permanent housing, the current annual number seeking seasonal housing (such as farmworker center housing), and the projected change in seasonal labor force under the H2A program over the coming five years.
- Using survey response, focus group and key informant interview, provide a summary of barriers to accessing or securing safe, stable housing for permanent and seasonal farmworkers, noting unique or disproportionate barriers for sub-populations.
- Using survey response, focus group and key informant interview, provide a summary of barriers to private Farmworker Center development and operation.
- Using survey response, focus group and key informant interview, provide a summary of service gaps in between farmworker needs and currently available services, as well as identified barriers to accessing existing services for permanent and seasonal farmworkers, noting unique or disproportionate barriers for sub-populations.
- Provide recommendations for innovative solutions to address all identified barriers (housing & separately, services), including ways public and private sector entities can work collaboratively to meet the unique needs of the farmworker labor force.
- Develop a final online, interactive (ie: Live Stories) report that encompasses Key Findings from surveys, interviews and focus groups, including descriptive statistics of demographic characteristics of study participants, primary housing and service access barriers, and recommendations for solutions to both based on study data.
- A PowerPoint slide deck for use in public meeting presentations that encompasses Key Findings from surveys, interviews and focus groups, including descriptive statistics of demographic characteristics of study participants, and including recommendations describing housing barrier resolution to existing housing and new farmworker housing opportunities based on study data.
- 6 short (30sec) and 3 mid (2min) length videos of farmworkers representative of the scope of those involved in the study, that can be used to increase local awareness and understanding of the diversity and unique needs of the farmworker labor force in Napa County
- Ensure that any reports, and any deliverable to the County be delivered in a manner to ensure non-discrimination and equal access to County services and digital properties such as websites, documents, and applications by persons with a disability under the Americans with Disabilities Act (ADA) and under Section 508 of the Rehabilitation Act of 1973. Successful respondent shall ensure that any deliverable, including but not limited to, reports, documents, videos, multimedia productions, live broadcasts and any and all other web content and information communications technology are fully accessible and in compliance with federal accessibility standards and laws and with the COUNTY's Web Content Accessibility Standards. Examples of accessibility measures include, but are not limited to, providing closed captions, video descriptions, and 508 compliant players.

Maximum 8 Pages.

COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.

As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report. The Agreement and subcontract dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports

ATTACHMENT C

PRICING/RATE PROPOSAL

1. Please provide a pricing/rate proposal using a deliverable-based pricing structure for detailed outputs and timeline. **(25 Points)**

Maximum 1 page

ATTACHMENT D

NAPA COUNTY AGREEMENT NO. _____

PROFESSIONAL SERVICES AGREEMENT

GENERAL PSA

[THIS IS THE GENERAL BOILERPLATE FOR PROFESSIONAL SERVICES. IT CONTAINS BLANKS TO BE FILLED IN, ALTERNATE LANGUAGE AND COMMENTS. BEFORE SUBMITTING A CONTRACT TO COUNTY COUNSEL FOR REVIEW, PLEASE MAKE SURE THAT ALL BLANKS HAVE BEEN FILLED IN, CHOICES MADE FROM THE ALTERNATES, AND THE COMMENTS, UNUSED ALTERNATES, AND BRACKETS HAVE BEEN DELETED, BUT LEAVE THE FOOTER AS-IS BECAUSE IT IDENTIFIES THE VERSION USED AND THE COUNTY COUNSEL WILL ADD ITS OWN FOOTER]

THIS AGREEMENT is made and entered into as of this _____ day of _____, _____, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as “COUNTY”, and _____ **[TYPE IN LEGAL NAME OF CONTRACTOR; IF THE CONTRACTOR USES A FICTITIOUS BUSINESS NAME AS WELL, ADD “doing business as _____”; IF THE CONTRACTOR IS A CORPORATION, ADD THE STATE OF INCORPORATION BY SAYING, “a _____ corporation”]**, whose mailing [or business] address is _____, hereinafter referred to as “CONTRACTOR”;

RECITALS

WHEREAS, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to _____

_____;
and

WHEREAS, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein; and

TERMS

NOW, THEREFORE, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the terms and conditions set forth herein:

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on _____, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination) or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONTRACTOR to COUNTY shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention). **[IF THE TERM NEEDS TO ROLLOVER, ADD THE FOLLOWING AND INCLUDE MAXIMUM NUMBER OF YEARS]** The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed _____ additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, “fiscal year” shall mean the period commencing on July 1 and ending on June 30.
2. **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit “A”, attached hereto, **[IF THE CONTRACT WAS THE RESULT OF AN RFP PROCESS, INCLUDE THE FOLLOWING]** in addition to the RFP and CONTRACTOR’s proposal, incorporated by reference herein.
3. **Compensation.**
 - (a) **Rates.** In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rate of **[OR, fixed price of]** _____ **[OR, IF THERE IS MORE THAN A SINGLE RATE OR**

FIXED PRICE, USE THE FOLLOWING:] at the rates **[OR, fixed prices]** set forth in Exhibit “B”, attached hereto and incorporated by reference herein.

(b) Expenses. No travel or other expenses will be reimbursed by COUNTY. **[OR, USE THIS ALTERNATE LANGUAGE:** Travel and other expenses will be reimbursed by COUNTY upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the provisions set forth in Exhibit “B.”

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of _____ (\$_____) for professional services and _____ (\$_____) for expenses**[IF PARAGRAPH 1 HAS AN AUTOMATIC ROLLOVER, ADD:** per fiscal year]; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. Method of Payment.

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked, a detailed description of the tasks completed during the billing period, the names of person(s) performing the services and the position(s) held by such person(s), and the approved hourly or task rate.

(b) Expenses. If the Agreement provides for expense reimbursement, requests for reimbursement shall describe the nature and cost of the expense, the date incurred. With the exception of per diem reimbursements, receipts must be attached.

(c) Fixed Price. If the Agreement provides for a fixed price, if CONTRACTOR presents interim invoices, CONTRACTOR must state the percentage of work completed, which must be verified by COUNTY, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

(d) CONTRACTOR shall submit invoices not more often than _____ to the _____ **[INSERT POSITION TITLE]** who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor no later than fifteen (15) calendar days following receipt. A sample invoice showing the level of detail required is attached as Exhibit “C”.

(e) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR is or

becomes a corporation during the term of this Agreement, proof that such status is currently recognized by and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the **[INSERT POSITION TITLE]** upon request in a form satisfactory to the Napa County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by CONTRACTOR within the State of California.

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

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

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

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver

of subrogation, and shall provide COUNTY with certification of all such coverages upon request by COUNTY's Risk Manager.

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

(1) **General Liability.** Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of CONTRACTOR or any officer, agent, or employee of CONTRACTOR under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) **Professional Liability/Errors and Omissions.** Professional liability [or errors and omissions] insurance for all activities of CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

[NOTE: CONTACT COUNTY'S RISK MANAGER ABOUT WHETHER THIS TYPE AND AMOUNT OF INSURANCE IS RELEVANT TO THE SERVICES BEING PROVIDED. PROFESSIONAL LIABILITY INSURANCE IS GENERALLY ONLY REQUIRED WHERE CONTRACTOR PROVIDES LICENSED PROFESSIONAL SERVICES, WHEREAS ERRORS AND OMISSIONS INSURANCE MAY BE REQUIRED FOR CLAIMS ADJUSTMENT SERVICES AND CERTAIN OTHER SPECIALTIES. IF NOT RELEVANT, DELETE AND REPLACE SUBPARAGRAPH (2) WITH THE FOLLOWING:

(2) Professional Liability/Errors and Omissions. [RESERVED]

(3) **Comprehensive Automobile Liability Insurance.** Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If CONTRACTOR or CONTRACTOR's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person upon request.

(c) Certificates of Coverage. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of COUNTY's Risk Manager, demonstrated by other evidence of coverage acceptable to COUNTY's Risk Manager, which shall be filed by CONTRACTOR with the **[INSERT NAME OF COUNTY DEPARTMENT MANAGING THE AGREEMENT]** prior to commencement of performance of any of CONTRACTOR's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its COUNTY number or title and department; shall be kept current during the term of this Agreement; shall provide that COUNTY shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

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

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

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

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, COUNTY's Risk Manager, which approval shall not be denied unless the COUNTY's Risk Manager determines that the deductibles

or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of CONTRACTOR by this Agreement. At the option of and upon request by COUNTY's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects COUNTY, its officers, employees, agents and volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

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

8. Hold Harmless/Defense/Indemnification.

(a) **In General.** To the full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless COUNTY and its officers, agents, employees, volunteers, or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, arising from all acts or omissions of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees, volunteers, representatives, or other contractors or their subcontractors. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

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

9. Termination for Cause. If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within _____ () 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 _____ () days prior written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). The Napa County Purchasing Agent or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

[NOTE: THE TOTAL OF THE TIME PERIODS IN PARAGRAPH 9 MUST BE SHORTER THAN THE TIME PERIOD IN PARAGRAPH 10. FOR INSTANCE, IN PARAGRAPH 9, 10 DAYS TO CURE PLUS 5 DAYS NOTICE OF DEFAULT IS TYPICAL; IN PARAGRAPH 10, 30 DAYS IS USUAL, BUT THE PERIOD MAY NEGOTIATED TO BE LONGER IF, FOR EXAMPLE, CONTRACTOR HAS HAD TO HIRE SPECIFIC STAFF FOR THE PROJECT AND NEEDS TIME FOR LAYOFF OR REASSIGNMENT PROCEDURES.]

10. Other **Termination**. This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party specifying the effective date thereof at least _____ days prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

[IF THE TERM OF THE AGREEMENT COVERS MORE THAN ONE FISCAL YEAR, PARAGRAPH 10 ABOVE MUST BE USED UNLESS THE “NON-APPROPRIATION CLAUSE” IS SUBSTITUTED IN ITS PLACE (see Instructions for Completing PSA-Additional Provisions to Include)]

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

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a party under Paragraph 10:

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

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of COUNTY, the property of and shall be promptly returned to COUNTY, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only COUNTY shall be entitled to claim or apply for the copyright or patent thereof. Notwithstanding the foregoing and to the extent services under this Agreement involve the development of previously patented inventions or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that COUNTY shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by COUNTY for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

(b) CONTRACTOR shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to receipt of the notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY from CONTRACTOR is determined.

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

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

COUNTY

CONTRACTOR

[Name]

[Name]

[Address]

[Address]

14. Compliance with COUNTY Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use. CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR also agrees that it shall not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by COUNTY employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective June 20, 2017.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the COUNTY computer network shall sign and have on

file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

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

15. Confidentiality.

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of COUNTY, expressed through its

_____ **[INSERT POSITION TITLE]**. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

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

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR. Additionally, CONTRACTOR shall only access, use or disclose County Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with County. Any other access, use or disclosure of County Protected Information is prohibited. Examples of prohibited accesses, uses and disclosures include, but are not limited to: the removal of confidential files, documents or devices containing County Protected Information from a County facility; the unauthorized transmission of County Protected Information via email, fax or other means; and the discussion of such information with other individuals (including other CONTRACTOR or County employees) who do not have a County approved business reason to obtain the information.

(2) CONTRACTOR shall ensure that its staff and any third party organizations or individuals that it engages to perform services in conjunction with the terms of this agreement are trained to its privacy and security policies, as well as Paragraph 15 of this

agreement; and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of. This includes instances wherein CONTRACTOR encounters unsecured Protected Information in areas where CONTRACTOR employees are performing services.

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

[IF THE CONTRACTOR WILL BE ACCESSING AND/OR STORING PERSONALLY IDENTIFIABLE INFORMATION OF COUNTY CLIENTS, SUCH AS MENTAL HEALTH, SELF SUFFICIENCY, ETC., ADD THE FOLLOWING LANGUAGE]

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

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

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

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

16. No Assignments or Subcontracts.

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

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

17. Amendment/Modification. Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. Failure of CONTRACTOR to secure such authorization in writing in advance of performing any extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work.

18. Interpretation; Venue.

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

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing

any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

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

(a) Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors shall not deny the benefits thereof to any person on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), or political affiliation or belief, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. CONTRACTOR shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to CONTRACTOR services or works required of COUNTY by the State of California pursuant to agreement between COUNTY and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and CONTRACTOR and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

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

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

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

(d) Prevailing Wages. **[THIS SECTION CAN BE RESERVED IF IT IS CLEAR THE SCOPE OF WORK DOES NOT INCLUDE THE POSSIBILITY OF SERVICES REQUIRING THE PAYMENT OF PREVAILING WAGES.]**

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

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

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

(4) Apprentices. CONTRACTOR shall be responsible for ensuring compliance with the provisions of Labor Code section 1777.5 relating to employment and payment of apprentices for work under this Agreement relating to land surveying and/or construction

inspection if the total compensation to be paid CONTRACTOR for such work is \$30,000 or more.

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

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

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

23. Conflict of Interest.

(a) Covenant of No Undisclosed Conflict. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. CONTRACTOR hereby covenants that it presently has no interest not disclosed to COUNTY and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as COUNTY may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it

is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

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

[ALTERNATE #1: IF THE AGREEMENT IS FOR PURELY TECHNICAL OR NON-ADVISORY SERVICES, SUCH AS TRAINING, CUSTODIAL, TREATMENT OF A PATIENT, OR TESTING, INCLUDE THE FOLLOWING LANGUAGE :]

By executing this Agreement, the COUNTY hereby determines in writing that CONTRACTOR has been hired to perform a range of duties so limited in scope as to not be required to comply with such disclosure obligation.

[OR ALTERNATE #2: INSTEAD OF ALTERNATE #1, USE THE FOLLOWING LANGUAGE IF THE AGREEMENT IS NOT PURELY TECHNICAL:

CONTRACTOR agrees to timely comply with all filing obligations for a consultant under COUNTY’s Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

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

25. Attorney's Fees. In the event that either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for

breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

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

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

28. Special Terms and Conditions. **[RESERVED]**

[IF THERE ARE SPECIAL TERMS, DELETE “RESERVED” AND REPLACE WITH:]

CONTRACTOR shall adhere to the special terms and conditions set forth in Exhibit “ ”, attached hereto and incorporated by reference herein.

[IF THE CONTRACT IS RELATED TO THE 2014 EARTHQUAKE, DELETE “RESERVED” AND REPLACE WITH THE FOLLOWING AND ATTACH THE EARTHQUAKE EXHIBIT FROM COUNTY COUNSEL’S INTERNAL SITE:]

(a) Contractor shall comply with those requirements set for in Exhibit “ ” and any other applicable federal, state, or local requirements subsequently deemed applicable to the work completed in connection with this Agreement.

(b) Contractor shall document all work done in connection with this Agreement and utilize FEMA project identification codes as directed by the Napa County Auditor and/or the Director of Public Works.

[IF THE CONTRACT HAS ANY OTHER FEDERAL, STATE, OR GRANT FUNDING STREAMS, NOTIFY COUNTY COUNSEL TO ENSURE ALL REQUIRED PROVISIONS FROM THE FUNDING STREAM ARE FULLY INCORPORATED INTO THE CONTRACT:]

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

[TYPE IN LEGAL NAME OF CONTRACTOR; IF THE CONTRACTOR USES A FICTITIOUS BUSINESS NAME AS WELL, ADD “doing business as _____” FOLLOWED BY THE FICTITIOUS BUSINESS NAME]

By

[NAME], [Title]

[IF CONTRACTOR IS A CORPORATION, TWO SIGNATURES ARE NEEDED FROM EACH OF THESE 2 GROUPS: 1. PRESIDENT, OR ANY VICE PRESIDENT and 2. SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER. IF ONE PERSON CONCURRENTLY HOLDS OFFICES FROM EACH GROUP, ONE SIGNATURE IS ACCEPTABLE BUT LIST BOTH TITLES OF OFFICE; OR OBTAIN EVIDENCE OF AUTHORIZATION FROM THE CORPORATION FOR A SINGLE PERSON OR POSITION TO SIGN THE CORPORATION'S CONTRACTS.]

By

[NAME], [Title]

"CONTRACTOR"

NAPA COUNTY, a political subdivision of
the State of California

By _____

RYAN GREGORY, Chair

Board of Supervisors

"COUNTY"

APPROVED AS TO FORM Office of County Counsel By: County Counsel Date:	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: Processed By: Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By:
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EXHIBIT "A"

SCOPE OF WORK

CONTRACTOR shall provide COUNTY with the following services:

I. DESCRIPTION OF SERVICES

[NOTE: INSERT A DESCRIPTION, PREFERABLY IN OUTLINE FORM, OF THE SERVICES TO BE PROVIDED. IF PAYMENT IS TO BE BY TASKS, THEN THE TASK DESCRIPTION IN THIS EXHIBIT SHOULD USE THE SAME NUMBERING SYSTEM AS THE TASK PAYMENT SCHEDULE IN EXHIBIT "B." IF CONTRACTOR'S PROPOSAL IS USED AS THE BASIS OF THE DESCRIPTION OF SERVICES, THE TERMINOLOGY IN THE PROPOSAL NEEDS TO BE CONFORMED TO THE TERMINOLOGY IN THE MAIN TEXT OF THE AGREEMENT—FOR INSTANCE, 'COUNTY' SHOULD BE USED RATHER THAN "NAPA COUNTY", "YOU" OR "CUSTOMER" OFTEN SEEN IN PROPOSALS; "CONTRACTOR" SHOULD BE USED

RATHER THAN THE VENDOR'S ACTUAL NAME OR ACRONYM, "US", OR "WE" OFTEN SEE IN PROPOSALS; AND "WILL" SHOULD BE CHANGED TO "SHALL" WHENEVER IT REFERS TO SOMETHING WHICH CONTRACTOR IS REQUIRED TO DO UNDER THE AGREEMENT. IF THE PROPOSAL WAS SENT IN ELECTRONIC FORM, THESE CHANGES CAN BE MADE DIRECTLY IN THE TEXT, AND THE TEXT USED AS THE DESCRIPTION. OTHERWISE, THIS SECTION I OF EXHIBIT "A" CAN READ: "See Attached. For purposes of this Exhibit "A", references in the Attachment to _____ shall mean _____", WITH THE BLANKS SHOWING HOW THE TERMINOLOGY SHOULD BE CONVERTED.

[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, THE FOLLOWING PARAGRAPH MUST BE INCLUDED]

II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550. As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report. The Agreement and subcontract dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

EXHIBIT "B"

COMPENSATION AND EXPENSE REIMBURSEMENT

[DELETE "AND EXPENSE REIMBURSEMENT" IF EXPENSES ARE NOT BEING REIMBURSED. THIS EXHIBIT MUST DESCRIBE WHETHER PAYMENT IS FIXED PRICE OR BASED ON AN HOURLY NOT TO EXCEED

AMOUNT. IF TRAVEL EXPENSES ARE INCLUDED, THE MAXIMUM PER DIEM AND MAXIMUM LODGING MUST BE SPECIFICALLY SET FORTH.]

EXHIBIT “C”

[Company Name]

[Street Address]

[City, ST ZIP Code]

Phone [phone] Fax [fax]

Taxpayer ID #

SAMPLE

INVOICE

INVOICE # _____

DATE: _____

TO:

[Customer Name]

[Street Address]

[City, ST ZIP Code]

FOR:

[Project or service description]

Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St, Napa.	Smith, Engineer	1.5	\$165.00	247.50
1/1/15	Conf w/Owner	Smith, Engineer	1	\$165.00	165.00
1/1/15	AutoCad, Bldg X, 3 rd Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15	AutoCad Bldg X, 3 rd Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15	Conf w/Owner re 2 nd Floor	Smith, Engineer	.5	\$165.00	82.50
1/3/15	Mtg w/Jones re 2 nd Floor; conf w/Owner	Smith, Engineer	1.5	\$165.00	247.50
1/3/15		Jones, PE	1.5	\$195.00	292.50

	Mtg w/Smith; conf w/Owner re 2 nd Floor				
TOTAL					