

PROFESSIONAL SERVICES AGREEMENT No. 240332B

between

BAY AREA HOUSING FINANCE AUTHORITY

and

NAPA COUNTY

for

BAY AREA HOUSING FINANCE AUTHORITY RENTAL ASSISTANCE PILOT PROGRAM

FISCAL YEARS 2023-2024 to 2027-2028

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PROFESSIONAL SERVICES AGREEMENT No. 240332B
Between BAY AREA HOUSING FINANCE AUTHORITY
And COUNTY OF NAPA
For BAY AREA RENTAL ASSISTANCE PILOT PROGRAM

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of April 1, 2024 (“Effective Date”), by and between the BAY AREA HOUSING FINANCE AUTHORITY (herein called “BAHFA”), a regional transportation planning agency established pursuant to California Government Code § 66500 and COUNTY OF NAPA, (herein called “NAPA”) a political subdivision organized under the laws of the State of California.

RECITALS

WHEREAS, BAHFA intends to create a rental assistance pilot program focused on seniors and people on fixed incomes at risk of homelessness (herein called the “Project”); and

WHEREAS, BAHFA may utilize staff employed by the Metropolitan Transportation Commission (MTC) under Government Code § 64520(j) and BAHFA Resolution No. 1 (adopted June 24, 2020); and

WHEREAS, the services required for the Project cannot be performed satisfactorily by the officers and employees of MTC; and

WHEREAS, on May 24, 2023, MTC adopted Resolution 4578 redirecting \$5 million to the Bay Area Housing Finance Authority to establish a new Rental Assistance Program to prevent homelessness. The Bay Area Housing Finance Authority then adopted Resolution 0030 on June 28, 2023, to authorize the use of these funds to create this Rental Assistance Pilot Program; and

WHEREAS, BAHFA staff issued an open Request for Proposals (RFP) August 15 – September 23, 2023, to solicit qualified proposals to further design and administer the program; and

WHEREAS a BAHFA evaluation panel selected Napa County based on their proposal that met or exceeded all required and optional qualifications outlined in the RFP, including the contribution of an additional \$1.6 million in cash and in-lieu services to the pilot program, which will cover the costs of all partner agencies providing necessary services to the program participants, allowing for \$4.5 million to go directly to program participants as financial assistance; and

WHEREAS, at its November 8, 2023, regular meeting, the BAHFA Oversight Committee awarded the full \$5M to Napa County; and

WHEREAS, the parties acknowledge all recitals are true and correct and are material to the terms of the contract; and

WHEREAS, the parties hereto now wish to enter into this Agreement pursuant to which NAPA will render professional services in connection with the Project as hereinafter provided;

NOW, THEREFORE, the parties hereto agree as follows:

1. SCOPE OF SERVICES

NAPA's services are described in Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. NAPA agrees to perform or secure the performance of all specified services within the maximum payment specified in Article 3, subject to the prior written approval of a work plan by Irene Farnsworth, (herein called "BAHFA Project Manager"). The BAHFA Project Manager is responsible for communication with NAPA and the administration of this Agreement. BAHFA's Executive Director or designated representative may substitute a new BAHFA Project Manager by written notice to NAPA.

NAPA's point of contact and the individual authorized to communicate to BAHFA on behalf of NAPA is Jennifer Palmer ("NAPA Project Manager"). A change in the NAPA Project Manager requires BAHFA's prior written approval.

In the performance of its services, NAPA represents that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and NAPA represents that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing.

1.1 PROGRESS REPORTS

NAPA shall provide BAHFA with regular progress reports according to the schedule and form approved by the BAHFA Project Manager.

1.2 SUBMISSION OF CONTRACT DOCUMENTS

To the extent requested by the BAHFA Project Manager, NAPA shall submit communications and required documentation, including but not limited to invoices, requests for contract modifications, and information on payments received and made to subconsultants, subconsultant utilization, and if applicable, certified payrolls, to the BAHFA PROJECT MANAGER or their designee via one or more web-based systems designated by BAHFA to which BAHFA will provide NAPA with system access. BAHFA may withhold payment of invoices pending receipt of such communications and required documentation via the applicable web-based system.

2. PERIOD OF PERFORMANCE

NAPA's services hereunder shall commence on or after April 1, 2024, and shall be completed no later than June 30, 2028 unless extended by a duly executed amendment or earlier terminated, as hereinafter provided. NAPA's services shall be performed in accordance with the schedule included in Attachment B, Project Schedule, attached hereto and incorporated herein by this reference.

3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, BAHFA will pay NAPA for its services as described in Attachment A, Scope of Work, a total amount, including (as applicable) labor, supervision, applicable

surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subconsultants' costs (including mark-up), travel, equipment, materials and supplies, expenses and any fixed fee, not to exceed Five Million Dollars (\$5,000,000) ("Maximum Payment"). BAHFA shall make payments to NAPA in accordance with the provisions described in Attachment C, Compensation and Method of Payment, attached hereto and incorporated herein by this reference.

All invoices shall be submitted electronically via email to BAHFA at acctpay@bayareametro.gov or in writing to:

Attention: Accounting Section
Bay Area Housing Finance Authority
Bay Area Metro Center, Suite 800
375 Beale Street
San Francisco, CA 94105

Payment shall be made by BAHFA within thirty (30) days of receipt of an acceptable invoice, approved by the BAHFA Project Manager or a designated representative.

4. KEY PERSONNEL

The key personnel to be assigned to this work by NAPA and, if applicable, their hourly rates and the estimated hours to be supplied by each are set forth in Attachment D, Key Personnel Assignments, attached hereto and incorporated herein by this reference. Substitution of any of the personnel named in Attachment D or a decrease in the hours provided to the project by such personnel of more than 10% requires the prior written approval of the BAHFA Project Manager or a designee. NAPA shall maintain records documenting compliance with this Article, and such records shall be subject to the audit requirements of Article 15. NAPA agrees that all personnel assigned to this work will be professionally qualified for the assignment to be undertaken. BAHFA reserves the right to direct removal of any individual, including key personnel, assigned to this work.

5. AMENDMENTS

BAHFA reserves the right to request changes in the services to be performed by NAPA. All such changes shall be incorporated in written amendments that specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and NAPA and specifically identified as amendments to the Agreement. The BAHFA Project Manager is not a designated representative, for purposes of approving an amendment.

6. TERMINATION

A. Termination for Convenience. BAHFA may terminate this Agreement for convenience, in whole or in part, at any time by written notice to NAPA. Upon receipt of notice of termination, NAPA shall stop work under this Agreement immediately, to the extent provided in the notice of termination,

and shall promptly submit its termination claim to BAHFA. NAPA shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination and a reasonable profit not to exceed 3%, plus reasonable termination costs, not to exceed the amount payable for such deliverables. If NAPA has any property in its possession belonging to BAHFA, NAPA will account for the same, and dispose of it in the manner BAHFA directs. Except as provided above, BAHFA shall not in any manner be liable for NAPA's actual or projected lost profits had NAPA completed the services required by this Agreement.

B. Termination for Default. If NAPA does not deliver the work products specified in this Agreement in accordance with the delivery schedule or fails to perform in the manner called for in the Agreement, or if NAPA fails to comply with any other material provision of the Agreement, BAHFA may terminate this Agreement for default. Termination shall be effected by serving a fifteen (15) day advance written notice of termination on NAPA, setting forth the manner in which NAPA is in default. If NAPA does not cure the breach or describe to BAHFA's satisfaction a plan for curing the breach within the fifteen (15) day period, BAHFA may terminate the Agreement for default. In the event of such termination for default, NAPA will be entitled to be reimbursed only for work performed in full compliance with the contract requirements as follows: NAPA shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. Such reimbursement will be offset by any costs incurred by BAHFA to complete work required under the Agreement. In no event shall BAHFA be required to reimburse NAPA for any costs incurred for work causing or contributing to the default. If NAPA has any property in its possession belonging to BAHFA, NAPA will account for the same, and dispose of it in the manner BAHFA directs. BAHFA shall not in any manner be liable for NAPA's actual or projected lost profits had NAPA completed the services required by this Agreement.

C. If it is determined by BAHFA that NAPA's failure to perform resulted from unforeseeable causes beyond the control of NAPA, such as a strike, fire, flood, earthquake or other event that is not the fault of, or is beyond the control of NAPA, BAHFA, after setting up a new delivery or performance schedule, may allow NAPA to continue work, or treat the termination as a termination for convenience.

7. INSURANCE AND FINANCIAL SECURITY REQUIREMENTS

NAPA shall, at its own expense, obtain and maintain in effect at all times for the duration of this Agreement the types of insurance and financial security listed in Attachment E, Insurance and Financial Security (Bond) Provisions, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All policies will be issued by insurers acceptable to BAHFA, generally with a Best's Rating of A- or better with a Financial Size Category of VII or better, or an A rating from a comparable rating service.

8. INDEPENDENT CONTRACTOR

NAPA is an independent contractor and not an employee or agent of BAHFA and has no authority to contract or enter into any agreement in the name of BAHFA. NAPA has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by NAPA who are assisting in the performance of services under this Agreement. NAPA shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. NAPA shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

9. INDEMNIFICATION

To the maximum extent permitted by law, NAPA shall indemnify, keep and hold harmless BAHFA and those entities (if any) identified as additional insureds in Attachment E, Insurance and Financial Security (Bond) Provisions, and their commissioners, directors, officers, agents, and employees (“BAHFA Indemnified Parties”) against any and all demands, claims, suits or actions arising out of any of the following:

- A. Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, caused by any breach of the Agreement or negligent act or omission or willful misconduct of NAPA or its officers, employees, subconsultants or agents or any of them, arising from, under or in connection with this Agreement; or
- B. Any allegation that materials or services provided by NAPA under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

NAPA further agrees to defend any and all such claims, actions, suits or other legal proceedings and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against any of the BAHFA Indemnified Parties, NAPA shall, at its expense, satisfy and discharge the same.

The provisions set forth in this Article are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

10. DATA TO BE FURNISHED BY BAHFA

All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials (“BAHFA Data”) made available to NAPA by BAHFA for use by NAPA in the performance of its services under this Agreement shall remain the property of BAHFA and shall be returned to BAHFA at the completion or termination of this Agreement. No license to such BAHFA Data, outside of the Scope of Work of the Project, is conferred

or implied by NAPA's use or possession of such BAHFA Data. Any updates, revisions, additions or enhancements to such BAHFA Data made by NAPA in the context of the Project shall be the property of BAHFA and subject to the provisions of Article 11.

10.1 PERSONALLY IDENTIFIABLE INFORMATION

NAPA agrees to comply with the special provisions related to the access and protection of personally identifiable information set forth in Attachment F, Special Conditions Regarding Personally Identifiable Information, attached hereto and incorporated herein by this reference.

10.2 NONDISCLOSURE OF CONFIDENTIAL INFORMATION

BAHFA may be required to make available to NAPA certain confidential, non-public or proprietary information ("Confidential Information") for purposes of carrying out the Project. Confidential Information may be tangible, intangible, visual, oral, written, and/or electronic information, present or future, and includes: (i) proprietary information learned through inspection of drawings, specifications or equipment; (ii) descriptions of proprietary processes, designs, functionality or know-how; (iii) proprietary software, programming data, code or information; and (iv) other information disclosed in writing and marked as "Confidential" or with a similar notice. As between BAHFA and NAPA, Confidential Information shall remain the sole and exclusive property of BAHFA, and no license or other rights to Confidential Information or any works deriving from Confidential Information is granted or implied hereby. Confidential Information does not include information that: a) is now or subsequently becomes generally available to the public through no fault of NAPA; b) NAPA can demonstrate to have had rightfully in its possession prior to disclosure by BAHFA or its contractors, vendors or licensors; c) NAPA rightfully obtains from a third party who has the right to transfer or disclose it; or (d) is required to be disclosed by law or applicable legal process.

NAPA agrees to take all necessary and reasonable precautions to maintain the confidentiality of Confidential Information and agrees not to use, copy, distribute or disclose such Confidential Information except for the business purpose underlying this Agreement, except as authorized in writing by BAHFA. NAPA further agrees to disclose Confidential Information only to its directors, officers, employees and consultants who need to know such information, and who have agreed to be bound by the terms and conditions of this Agreement. Promptly upon the request of BAHFA, at any time and for any reason, NAPA shall destroy or return to BAHFA, at BAHFA's option, all documents, computer files and other tangible materials that contain Confidential Information. These obligations survive the termination of this Agreement, unless otherwise agreed in writing by BAHFA.

11. OWNERSHIP OF WORK PRODUCTS

All drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture and any other documents, materials, data and products ("Work Products") prepared or assembled and furnished to

BAHFA by NAPA or its subconsultants pursuant to this Agreement shall be and are the property of BAHFA. BAHFA grants NAPA and its subconsultants a non-exclusive, worldwide, irrevocable, royalty-free license to use, publish, distribute, reproduce, publicly display or perform, and create derivative works from the Work Products. Notwithstanding the above, Work Products are not intended to be used for profit, nor include NAPA's or other third parties' intellectual property existing prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; NAPA or other third parties shall retain all right, title, and interest in any such pre-existing intellectual property. BAHFA shall be entitled to copies and access to these materials during the progress of the work. Any materials remaining in the hands of NAPA or in the hands of any subconsultant upon completion or termination of the work shall be immediately delivered to BAHFA, and NAPA may retain a copy of any such materials. NAPA hereby assigns to BAHFA ownership of any and all rights, title and interest in and to such Work Products, including ownership of any copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights in the Work Product. NAPA also agrees to execute all papers necessary for BAHFA to perfect its ownership of the rights in the Work Product. Notwithstanding the above, "Work Products" are not intended, nor shall they be construed to include, NAPA'S pre-existing intellectual property secured, developed, written, or produced by NAPA prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; NAPA shall retain all right, title and interest in any such pre-existing intellectual property.

NAPA shall be responsible for the preservation of any and all such Work Products prior to transmittal to BAHFA, and NAPA shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to BAHFA.

NAPA represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

12. SUBCONTRACTS

A. Subconsultants approved by BAHFA for subcontract work under this Agreement are listed in Attachment G, Subconsultant List, attached hereto and incorporated herein by this reference. Any subconsultants must be engaged under written contract with CONSULTANT with provisions allowing CONSULTANT to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a subconsultant to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of CONSULTANT. Any substitution of subconsultants listed in Attachment G must be approved in writing by BAHFA's Project Manager in advance of assigning work to a substitute subconsultant.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between BAHFA and any subconsultants, and no subcontract shall relieve NAPA of its responsibilities and obligations hereunder. NAPA agrees to be as fully responsible to BAHFA for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by NAPA. NAPA's obligation to pay its subconsultants is an independent obligation from BAHFA's obligation to make payments to NAPA.

C. Applicable provisions of this Agreement shall be included in any subcontract or subconsultant agreement in excess of \$25,000 entered into under of this Agreement.

D. Substitution of listed subconsultants shall generally be made in accordance with Public Contracts Code Section 4107.

13. ASSIGNMENT OF AGREEMENT

NAPA shall not assign this Agreement, or any part hereof without prior express written consent of BAHFA and any attempt thereat shall be void and unenforceable.

14. RECORDS

NAPA agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. NAPA further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer.

Any conflicting language regarding retention of records contained in Attachment H, State-Required Clauses, shall supersede this Article.

15. AUDITS

NAPA shall permit BAHFA and BAHFA's authorized representatives to have access to NAPA's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 14. NAPA shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

NAPA further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subconsultant agrees that BAHFA or any of BAHFA's duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subconsultant for the term specified above.

16. NOTICES

Except for invoices submitted by NAPA pursuant to Article 3, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

To BAHFA:

Attention: Irene Farnsworth
Bay Area Housing Finance Authority
375 Beale Street, Suite 800
San Francisco, CA 94105
Email: ifarnsworth@bayareametro.gov

To CONSULTANT: Attention: Jennifer Palmer
Napa County Executive Office, Housing and
Homeless Services Division
2751 Napa Valley Corporate Drive Building B
Napa, CA 94559
Email: Jennifer.Palmer@countyofnapa.org

17. SOLICITATION OF CONTRACT

NAPA warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for NAPA, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than bona fide employees working solely for NAPA, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, BAHFA shall have the right to terminate the Agreement without liability or, at its discretion, the right to deduct from NAPA's maximum payment the full amount of such fee, commission, percentage, brokerage fee, gift or contingent consideration.

18. PROHIBITED INTERESTS

NAPA covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree or have the potential of conflicting with the performance of services required under the Agreement or the impartial rendering of assistance or advice to BAHFA. NAPA further covenants that in the performance of the Agreement no person having any such interest shall be employed.

No member, officer, employee or agent of BAHFA, during their tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *et seq.*, direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, NAPA further covenants that it has made a complete disclosure to BAHFA of all facts of which NAPA is aware upon due inquiry bearing upon any possible interest, direct or indirect, that it believes any member,

officer, agent or employee of BAHFA (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by BAHFA.

18.1 ORGANIZATIONAL CONFLICTS OF INTEREST

NAPA shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to BAHFA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

NAPA shall not engage the services of any subconsultant or independent contractor on any work related to this Agreement if the subconsultant or independent contractor, or any employee of the subconsultant or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement NAPA becomes aware of an organizational conflict of interest in connection with the work performed hereunder, NAPA shall immediately provide BAHFA with written notice of the facts and circumstances giving rise to this organizational conflict of interest. NAPA's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, BAHFA becomes aware of an organizational conflict of interest in connection with NAPA's performance of the work hereunder, BAHFA shall similarly notify NAPA. In the event a conflict is presented, whether disclosed by NAPA or discovered by BAHFA, BAHFA will consider the conflict presented and any alternatives proposed and meet with NAPA to determine an appropriate course of action. BAHFA's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject NAPA to damages incurred by BAHFA in addressing organizational conflicts that arise out of work performed by NAPA, or to termination of this Agreement for breach.

19. LAWS AND REGULATIONS

NAPA shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of any such government, including but not limited to BAHFA, that relate to or in any manner affect the performance of the Agreement. Those laws, statutes, ordinances, rules, regulations and procedural requirements that are imposed on BAHFA as a recipient of federal or state funds are hereby in turn imposed on NAPA.

20. CLAIMS OR DISPUTES

NAPA shall be solely responsible for providing timely written notice to BAHFA of any claims for additional compensation and/or time in accordance with the provisions of the Agreement. It is BAHFA's intent to investigate and attempt to resolve any NAPA claims before NAPA has performed any disputed work. Therefore, NAPA's failure to provide timely notice shall constitute a waiver of NAPA's claims for additional compensation and/or time.

NAPA shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by BAHFA, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given BAHFA due written notice of a potential claim. The potential claim shall set forth the reasons for which NAPA believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

Such notice shall be given to BAHFA prior to the time that NAPA has started performance of the work giving rise to the potential claim for additional compensation.

If there is a dispute over any claim, NAPA shall continue to work during the dispute resolution process in a diligent and timely manner as directed by BAHFA, and shall be governed by all applicable provisions of the Agreement. NAPA shall maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached that resolves NAPA's claim, the parties will execute an Agreement modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to NAPA's claim, they may choose to pursue dispute resolution pursuant to Article 24, DISPUTE RESOLUTION, or BAHFA may terminate the Agreement.

21. REMEDIES FOR BREACH

In the event NAPA fails to comply with the requirements of the Agreement in any way, BAHFA reserves the right to implement administrative remedies that may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by BAHFA or NAPA shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

22. TEMPORARY SUSPENSION OF WORK

BAHFA, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as BAHFA may deem necessary. The suspension may be due to the failure on the part

of NAPA to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of NAPA. NAPA shall comply immediately with the written order of BAHFA to suspend the work wholly or in part. The suspended work shall be resumed when NAPA is provided with written direction from BAHFA to resume the work.

If the suspension is due to NAPA's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of NAPA, all costs shall be at NAPA's expense and no schedule extensions will be provided by BAHFA.

In the event of a suspension of the work, NAPA shall not be relieved of NAPA's responsibilities under this Agreement, except the obligations to perform the work that BAHFA has specifically directed NAPA to suspend under this section.

If the suspension is not the responsibility of NAPA, suspension of all or any portion of the work under this Section may entitle NAPA to compensation and/or schedule extensions subject to the Agreement requirements.

23. WARRANTY OF SERVICES

A. In the performance of its services, NAPA represents and warrants that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing

B. In the event that any services provided by NAPA hereunder are deficient because of NAPA's or a subconsultant's failure to perform said services in accordance with the warranty standards set forth above, BAHFA shall report such deficiencies in writing to NAPA within a reasonable time. BAHFA thereafter shall have:

1. The right to have NAPA re-perform such services at NAPA's expense; or
 2. The right to have such services done by others and the costs thereof charged to and collected from NAPA if within 30 days after written notice to NAPA requiring such re-performance, NAPA fails to give satisfactory evidence to BAHFA that it has undertaken said re-performance; or
 3. The right to terminate the Agreement for default.
- NAPA shall be responsible for all errors and omissions and is expected to pay for all deficient work as a result of errors and omissions.

24. DISPUTE RESOLUTION

A. Informal Resolution of Disputes. NAPA and BAHFA shall use good faith efforts to resolve all disputes informally at the project manager level. In the event such efforts are unsuccessful, either party may request that BAHFA provide a written determination as to the proposed resolution of

the dispute. Within twenty-one (21) calendar days of the request, the BAHFA Project Manager shall provide a written determination as to the dispute, including the basis for their decision. Upon NAPA's written acceptance of the BAHFA Project Manager's determination, the Agreement may be modified and the determination implemented or, failing agreement, BAHFA may in its sole discretion pay such amounts and/or revise the time for performance in accordance with the BAHFA Project Manager's determination.

If the BAHFA Project Manager's determination is not accepted by NAPA, the matter shall promptly be referred to senior executives of the parties having designated authority to settle the dispute. The senior executives will exchange memoranda stating the issues in dispute and their respective positions and then meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty (30) calendar days of commencement of senior management negotiations, the parties may mutually agree to try to settle the dispute by means of alternate dispute resolution methodologies, as set forth below.

B. Controversies Subject to Alternative Dispute Resolution. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between BAHFA and NAPA that cannot be resolved through the informal efforts described above, may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time.

C. Other Remedies. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. NAPA must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action.

D. Pending Resolution. NAPA shall continue to work during the dispute resolution process in a diligent and timely manner as directed by BAHFA, and shall be governed by all applicable provisions of the Agreement.

E. Cost of Alternative Dispute Resolution Proceedings. Each party shall bear the costs and expenses incurred by it in connection with such alternative dispute resolution processes. The cost of any mediator or independent decision maker shall be shared equally between the parties.

F. Survival of this Article. This Article shall survive completion or termination of this Agreement, but under no circumstances shall either party call for an alternative dispute resolution of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

25. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State.

26. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover reasonable attorneys' fees, in addition to all court costs.

27. PARTIAL INVALIDITY

If any term or condition of this Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

28. BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

29. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

30. ENTIRE AGREEMENT; MODIFICATION

This Agreement, including any attachments, constitutes the complete agreement between the parties and supersedes any prior written or oral communications. NAPA represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by both NAPA and BAHFA. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

[Signatures on following page.]

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

BAY AREA HOUSING FINANCE
AUTHORITY

COUNTY OF NAPA

Andrew B. Fremier
Executive Director
(Acting pursuant to Government Code § 64520(j)
and BAHFA Resolution No. 1 (adopted June 24,
2020))

Joelle Gallagher
Chair, Napa County Board of Supervisors

APPROVED AS TO FORM Office of Napa County Counsel By: <i>S. Darbinian</i> Date: March 11, 2024	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Napa County Board of Supervisors By: _____
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ATTACHMENT A

Scope of Work

Per the proposal provided by NAPA, an additional \$1.6M in in-lieu services and cash will be provided by NAPA to complete the services and activities outlined in this Scope of Work. The services to be performed by NAPA shall consist of services requested by the Project Manager or a designated representative including, but not limited to, delivery of the Napa County Rental Assistance Pilot Program, as described below:

Overview

The Napa Pilot Program will be led by a project management team from the Napa County Department of Housing and Homeless Services (DHHS) made up of the Project Leader and key fiscal/compliance staff, a dedicated project analyst, oversight by the Director of Housing & Homeless Services, and key additional support from administrative staff within the Department. All staffing provided through fee-for-service, memoranda of understanding, or subcontracts required to provide client-facing services shall be covered by the \$1.6M in lieu services provided by NAPA.

The partner consortium delivering the Napa Pilot Program led and managed by DHHS consists of five core provider agencies serving older adults, individuals on fixed incomes and monolingual-Spanish (or indigenous language) speaking households, with three additional support agencies providing application and enrollment support, and a total of eighteen agencies supporting referrals and support service program linkages.

TASK 1: Establish Rental Assistance Program

TASK 1 Step 1: Finalize Terms of the Program

- **Step 1.1:** Convening a reoccurring monthly check in meeting between DHHS and BAHFA staff over the four-year pilot period. This meeting may move to a quarterly basis once the project is fully operational.
 - **Deliverable:** Scheduled meetings and agendas.,
 - **Timeline:** April 2024-June 2028
- **Step 1.2:** Establishing the Eligibility and Subsidy Advisory Group, made up of lead staff from Core Partner Agencies, Support Service Agencies, and Program Referral & Support Service Linkage Partners and including consultation with legal and tax experts for subsidy impact guidance.
 - **Deliverable:** List of Eligibility and Subsidy Advisory Group Members
 - **Timeline:** April-June 2024
- **Step 1.3:** Drafting the participant eligibility criteria plan for BAHFA and Advisory Group review and approval.
 - **Deliverable:** Draft of Participant Eligibility Criteria Plan
 - **Timeline:** April – June 2024
- **Step 1.4:** Determining subsidy level and final benefit services for the eligible population, maximizing available cash-aid subsidy and braided fund case management capacity.
 - **Deliverable:** Subsidy and Benefit Services Summary Document
 - **Timeline:** April – June 2024

- **Step 1.5:** Detailing and finalizing all steps between Outreach/Referral, Application/Enrollment and Program Delivery & Social Service Engagement phases to ensure adequate support, warm hand-offs and full understanding of roles and responsibilities of the key staff involved with each step.
 - **Deliverable:** Document detailing steps involved in the outreach/referral, application/enrollment, and program delivery phases.
 - **Timeline:** April – June 2024
- **Step 1.6:** Adopt the Eligibility Criteria Plan, incorporating all aspects of program design informed by Steps 1-5 and translating criteria into a single, simple info-graphic-style tool to be shared with all outreach and program partners as well as direct-to-consumer communications.
 - **Deliverable:** Eligibility Criteria Plan
 - **Timeline:** Early June 2024
- **Step 1.7:** Finalize the full, four-year implementation plan and timeline.
 - **Deliverable:** Implementation Plan and Timeline
 - **Timeline:** End of July 2024

TASK 1 STEP 2: EQUITY AND LIVED EXPERIENCE ADVISORY MEETING

Recruit and convene an advisory group of persons with lived experience and representatives from other critical service populations.

- **Step 2.1:** Recruit 6-10 members for the Equity and Lived Experience Advisory Board.
 - **Deliverable:** List of members of the Advisory Board
 - **Timeline:** April – June 2024
- **Step 2.2:** Hold the initial meeting of the Equity and Lived Experience Advisory.
 - **Deliverable:** Agenda and calendar invitation to initial meeting.
 - **Timeline:** May 2024
- **Step 2.3:** Establish re-occurring convening of the Equity and Lived Experience Advisory.
 - **Deliverable:** Schedule and agendas for recurring convenings.
 - **Timeline:** May 2024 – October 2027

TASK 1, STEP 3: OUTREACH AND PARTICIPANT RECRUITMENT

- **3.1** Finalize the outreach and recruitment plan, following the Eligibility Criteria and Subsidy Level and Service Plans. These plans may be continually updated based on learnings from outreach and recruitment throughout the Pilot.
 - **Deliverable:** Outreach and Recruitment Plan
 - **Timeline:** April– May 2024
- **Step 3.2:** Finalize eligibility verification plan and confirm approval by BAHFA. This step will follow from the Eligibility Criteria Plan completed in Task 1.
 - **Deliverable:** Eligibility Verification Plan
 - **Timeline:** April– May 2024

- **Step 3.3:** Finalize Application Portal
 - **Deliverable:** Link to online finalized application portal
 - **Timeline:** April– May 2024
- **Step 3.4:** Initiate and conduct outreach according to the outreach plan.
 - **Deliverable:** Verbal reports on outreach to be shared at recurring BAHFA-DHHS meetings
 - **Timeline:** June 2024-June 2027, on-going as needed
- **Step 3.5:** Application & Enrollment.
 - **Deliverable:** Verbal reports on applications and enrollment to be shared at recurring BAHFA-DHHS meetings
 - **Timeline:** September 2024, on-going as needed.

TASK 1, Step 4: RESEARCH & EVALUATION

- **Step 4.1:** Design intake/exit and on-going periodic surveys for program participants to understand the impact of the program on housing security, financial health, and social and emotional well-being. NAPA's epidemiologist team and project management team, BAHFA staff and external evaluators (as requested) to design and implement on-going evaluation for program improvement and impact evaluation.
 - **Deliverable:** Copies of all surveys to be used.
 - **Timeline:** April – June 2024 (prior to program launch)
- **Step 4.2:** Implement survey instruments
 - **Staffing:** Verbal reports on survey implementation to be shared at recurring BAHFA-DHHS meetings
 - **Timeline:** July 2024 and on-going through December 2027
- **Step 4.3:** Survey data analysis and program improvements identified shared with BAHFA
 - **Deliverable:** Reports on survey data and analysis, including proposed program improvements
 - **Timeline:** July 2024 and on-going through December 2027

TASK 2: ADMINISTER RENTAL ASSISTANCE PROGRAM

Task 2, Step 1: PROVIDE RENTAL ASSISTANCE PAYMENTS

- **Task 2 Step 1.1:** Streamline payment processing operations between application approval documents and payment processing within the County Auditor-Controllers office to ensure smooth, efficient, well documented process.
 - **Deliverable:** Verbal reports on payment processing at recurring BAHFA-DHHS meetings
 - **Timeline:** April 2024 – June 2024
- **Task 2 Step 1.2:** Conduct baseline assessments of financial, health and well-being as well as a comprehensive needs assessment to identify additional services available to participant.
 - **Deliverable:** Verbal reports on baseline assessments at recurring BAHFA-DHHS meetings
 - **Timeline:** October-December 2024, on-going as needed (it is anticipated that the

initial enrollment waiver will necessitate spreading the work across the first few months of the program implementation in order to support the amount of time envisioned for the baseline assessments and social service support plans.

- **TASK 2 Step 1.3:** Connect clients to social and housing support services as needed and identified by baseline assessments and support plans.
 - **Deliverable:** Verbal reports on client connection to services at recurring BAHFA-DHHS meetings
 - **Timeline:** Beginning October 2024, continuing for the duration of the pilot (December 2027).
- **TASK 2 Step 1.4:** Data quality oversight, tracking and quarterly reporting to BAHFA on program administration and expenditures.
 - **Deliverable:** Quarterly reports to BAHFA on program administration and expenditures.
 - **Timeline:** Ongoing throughout the pilot (oversight) and quarterly reporting to BAHFA.
- **TASK 2, Step 1.5:** Development of comprehensive desk guide to include: program model overview and organizational chart; job descriptions and training instruments for administrative, outreach, application/enrollment and program delivery and social support partner staff; MOU's, FFS Agreements and Service Contracts including cost assumptions for all partner agencies in the workflow model; Summary of "Lessons Learned" from pilot roll- out; and, all baseline assessment tools and evaluation plan.
 - **Deliverable:** Comprehensive desk guide to program administration.
 - **Timeline:** June – December 2024

TASK 2, Step 2: PROGRAM CLOSING PLAN

- **TASK 2, Step 2.1:** Research and investigation to secure alternative funding sources and service commitments post December 2024.
 - **Deliverable:** Verbal reports to BAHFA regarding relevant funding source updates during scheduled BAHFA-DHHS meetings
 - **Timeline:** January 2025 and on-going.
- **TASK 2, Step 2.2:** Develop exit support plans.
 - **Deliverable:** Documentation summarizing exit plans.
 - **Timeline:** January 2025 with on-going quarterly exit plan reviews to revise with client and case manager feedback, including feedback from the Equity and Lived Experience Advisory Group.
- **TASK 2, Step 2.3:** Develop Pilot Close Out Plan
 - **Deliverable:** Draft pilot closeout plan to BAHFA
 - **Timeline:** January - July 2026 draft pilot closeout plan developed, to be proposed-reviewed-adopted by April 2027 to support close out December 2027 with all clients remaining in stable, safe housing situations following the pilot

ATTACHMENT B
Project Schedule

Task #	Work to be Performed/Deliverables (#)	Completion Date
1	Establish Rental Assistance Program	July 1, 2024
2	Administer Rental Assistance Program	June 2028

ATTACHMENT C
Compensation and Method of Payment

FIRM FIXED PRICE

A. Compensation. NAPA shall be paid, as full compensation for the satisfactory completion of the work identified below, and as more fully described in Attachment A, Scope of Work. Work includes all labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, as well as indirect costs, overhead and profit allowance, subconsultants' costs, travel, equipment, materials and supplies. Any amendments to this Agreement shall be based on the hourly rates set forth in Attachment D, Key Personnel Assignments, attached hereto and incorporated herein by this reference. In no event shall the total compensation to be paid NAPA under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Progress Payments. Payment for NAPA's services shall be due in the amounts indicated below, upon acceptance by the MTC Project Manager of the following deliverables or milestones, described in detail in Attachment A, Scope of Work. Tasks may be completed concurrently or outside of the order described below, with the approval of the BAHFA project manager.

BAHFA shall pay NAPA an upfront amount of \$500,000 to fund the establishment of the Rental Assistance Program. NAPA shall submit invoices on a quarterly basis for work completed, including staff hours and financial assistance disbursed to clients, and BAHFA shall reimburse NAPA to ensure that the base amount of \$500,000 is maintained. Annual true ups will be coordinated between BAHFA and NAPA in compliance with BAHFA financial record keeping. BAHFA expects that any interest NAPA earns on the funds shall be reinvested into the Rental Assistance program within the scheduled contract period.

Scope of Work:

Deliverable #	Deliverable	<u>Amount Due</u>
1	Establish Rental Assistance Program	\$500,000
2	Administer Rental Assistance Program	\$ 4,500,000
7		
Total:		\$5,000,000

C. Method of Payment. NAPA shall submit an invoice identifying the project deliverable or milestone for which payment is sought on a quarterly basis after the first \$500,000 payment is made with applicable information regarding the financial payments made to clients for rental assistance. If applicable, NAPA's final invoice must include the certification that all Personally Identifiable Information (PII) has been destroyed in accordance with Attachment F, Special Conditions Relating to Personally Identifiable Information.

LABOR – HOUR

A. Compensation. NAPA shall be compensated for services based on the hourly rates for the key personnel set forth in Attachment D, Key Personnel Assignments, attached hereto and incorporated herein by this reference, which include all labor, supervision, applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies. Said hourly rates shall remain in effect for the term of the Agreement, unless BAHFA's prior written authorization is obtained for any changes. In no event shall the total compensation to be paid NAPA under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Expenses. BAHFA will reimburse NAPA for all expenses deemed reasonable and necessary by BAHFA incurred by NAPA in the performance of this Agreement. Such reimbursement shall include travel and personal expenses incurred by employees or agents of all NAPAS in accordance with 48 Code of Federal Regulations Part 31 or 2 CFR Part 200, as applicable.

C. Method of Payment. BAHFA shall provide an initial payment of \$500,000 to establish the Program. NAPA shall then submit invoices for services rendered on a quarterly basis covering fees and expenses for a single calendar month, identifying the work for which payment is requested; the hours worked; any authorized expenses, together with receipts for such expenses; the amount requested; and the cumulative amount billed and paid under this Agreement. If applicable, NAPA's final invoice must include the certification that all Personally Identifiable Information (PII) has been destroyed in accordance with Attachment F, Special Conditions Relating to Personally Identifiable Information.

ATTACHMENT D
Key Personnel Assignments and Resource Rate Schedule

PRIME CONSULTANT: Napa County

	General Classifications ¹ and Key Personnel ²	Fully Burdened Billing Rate ³			
		Effective from 2/1/2024 to 2/1/2028			
1	Classification (E.g. Principal)	\$231.00			
		\$237.93			
		\$245.07			
a	Jennifer Palmer (Director)	\$163.49			
b	Emma Moyers (Staff Services Manager)	\$125.35			
c	Maria Medrano (Staff Services Manager)	\$125.35			
d	Public Health Manager	\$125.35			
e	Public Health Epidemiologist	\$94.01			
f	Analyst	\$94.01			

* Applicable to development of payment provisions in amendments only.

¹ Numbered rows indicated general classifications.

² Lettered rows indicate Key Personnel. If applicable, key personnel shall be identified in each individual task order. Rates for Key Personnel shall not exceed the Maximum Hourly rate for the applicable general classification.

³ Fully Burdened Billing Rates include (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subconsultants' costs (including mark-up), travel, equipment, materials and supplies, expenses and any fixed fee.

ATTACHMENT E
Insurance and Financial Security (Bond) Provisions

1. INSURANCE

A. Minimum Coverages. The insurance requirements specified in this section shall cover NAPA's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that NAPA authorizes to work under this Agreement (hereinafter referred to as "Agents.") NAPA shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

NAPA is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, NAPA shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling NAPA's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event NAPA or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that NAPA's insurance be primary without right of contribution from BAHFA. Prior to beginning work under this contract, NAPA shall provide BAHFA with satisfactory evidence of compliance with the insurance requirements of this section.

The insurance listed hereunder shall be considered minimum requirements and any and all insurance proceeds in excess of the requirements shall be made available to BAHFA. If the NAPA maintains broader coverage and/or higher limits than the minimum limits shown hereunder, BAHFA shall be entitled to the broader coverage and/or higher limits maintained by the NAPA.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability Insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of NAPA's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of BAHFA. Such Workers' Compensation & Employer's Liability may be waived, if and only for as long as NAPA is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the premises and operations, and products and completed operations of NAPA and NAPA's officers, agents, and employees and with limits of liability which shall not be less than

\$1,000,000 per occurrence with a general aggregate liability of not less than \$2,000,000, a products/completed operations aggregate liability limit of not less than \$2,000,000 and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation or “Waiver of Transfer of Rights of Recovery Against Others to Us” provision included in the policy language or by endorsement in favor of BAHFA.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

BAHFA and those entities listed in Part 3 of this Attachment E (if any), and their commissioners, directors, officers, representatives, and employees are to be named as additional insureds for ongoing and completed operations. Such insurance shall be primary and non-contributory, and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from NAPA’s operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by NAPA and NAPA’s officers, and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Excess or Umbrella Insurance in the amount of \$1,000,000 providing excess limits over Employer’s Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Errors and Omissions Professional Liability Insurance for errors and omissions and the resulting damages, including, but not limited to, economic loss to BAHFA and having minimum limits of \$1,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage. Such cyber risk coverages shall include liability arising from the loss, theft or failure to protect, or unauthorized acquisition of BAHFA’s personally identifiable information or confidential information. [If cyber risk coverages are included, the limit should match the limit for Errors and Omissions Professional Liability.

The policy shall provide coverage for all work performed by NAPA and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of NAPA. No contract or agreement between NAPA and any subcontractor/consultant shall relieve NAPA of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by NAPA and any subcontractor/consultant working on behalf of NAPA on the project.

6. Employee Dishonesty/Crime Insurance. An Employee Dishonesty insurance policy covering NAPA’s employees for loss of or damage to money, securities or other property resulting from theft. The following limits of liability should apply: (a) Employee Dishonesty - \$3,000,000; and (b) Client Property Blanket Bond - \$3,000,000. NAPA shall reimburse BAHFA for any and all losses

within the deductible, for insured losses, the cost to prove the loss, accountants' fees, defense costs including attorneys' fees and any other fees associated with a claim. In lieu of a Client Property Blanket Bond, the policy shall contain a Joint Loss Payee endorsement or other Third Party coverage naming BAHFA.

Such policy shall contain a Waiver of Subrogation in favor of BAHFA.

BAHFA (and those entities listed in Part 3, ADDITIONAL INSURED, of this Attachment E (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from NAPA's operations.

DELIVERY OF DATA AND DATA RIGHTS: NAPA agrees to provide BAHFA with all data obtained from the performance of the work within the time set forth by BAHFA's delivery directions and/or schedule. NAPA warrants that it transfers all rights to any data obtained to BAHFA, including any copyright, when the data is delivered. In addition, NAPA agrees that it will not retain any copies of the data and will not resell or provide any of the data to any other person or entity without the express written permission of BAHFA.

B. Acceptable Insurers. All policies will be issued by insurers, generally with a Best's Rating of A- or better with a Financial Size Category of VII or better, or an A rating from a comparable rating service.

C. Self-Insurance. NAPA's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to BAHFA.

D. Deductibles and Retentions. NAPA shall be responsible for payment of any deductible or retention on NAPA's policies without right of contribution from BAHFA. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that BAHFA seeks coverage as an additional insured under any NAPA insurance policy that contains a deductible or self-insured retention, NAPA shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of NAPA, subconsultant, subcontractor, or any of their employees, officers or directors, even if NAPA or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, NAPA shall:

- (1) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
- (2)
- (3) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and

- (4) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, NAPA shall purchase “extended reporting” coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of NAPA’s personnel, subconsultants, subcontractors, and equipment have been removed from BAHFA’s property, and the work or services have been formally accepted. NAPA must notify BAHFA if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, NAPA shall deliver to Ebix, BAHFA’s authorized insurance consultant, insurance documentation (including Certificates of Liability Insurance, Evidences of Property Insurance, endorsements, etc.) verifying the aforementioned coverages. Such evidence of insurance shall make reference to all provisions and endorsements referred to above and shall be signed by the authorized representative of the Insurance Company shown on the insurance documentation. **The Project name shall be clearly stated on the face of each Certificate of Liability Insurance and/or Evidence of Property Insurance.**

NAPA shall submit certificates of insurance to:

BAY AREA HOUSING FINANCE AUTHORITY

Insurance Compliance

P.O. Box 100085-M8

Duluth, GA 30096

or

Email to MTC@Ebix.com

or

Fax to 1-888-617-2309

BAHFA reserves the right to require copies of all required policy declarations pages or insurance policies, including endorsements, required by these specifications, at any time.

2. ADDITIONAL INSURED

The following entities are to be named as Additional Insureds under applicable sections of this Attachment E and as BAHFA Indemnified Parties, pursuant to Article 9 of the Agreement.

Association of Bay Area Governments (ABAG)

Metropolitan Transportation Commission (MTC)

ATTACHMENT F
Special Conditions Relating to Personally Identifiable Information (PII)

NAPA will have access to personally identifiable information (“PII”) in connection with the performance of the Agreement. PII is any information that is collected or maintained by BAHFA or NAPA that identifies or describes a person or can be directly linked to a specific individual. Examples of PII include name, address, phone or fax number, signature, date of birth, or credit card information, or bank account number.. The following special conditions related to the confidentiality and use of PII apply to this Agreement:

1. Right to Audit:

NAPA shall permit BAHFA and its authorized representatives to audit and inspect: (i) NAPA’s facilities where PII is stored or maintained; (ii) any computerized systems used to share, disseminate or otherwise exchange PII, including third party hosting or service provider systems; and (iii) CONSULTANT’s security practices and procedures, data protection, business continuity and recovery facilities, resources, plans and procedures. The audit and inspection rights hereunder shall be for the purpose of verifying NAPA’s compliance with this Agreement, and all applicable laws.

2. Protecting PII:

All PII made available to or independently obtained by NAPA in connection with this Agreement shall be protected by NAPA from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to BAHFA. This includes, but is not limited to, the secure transport, transmission and storage of PII used or acquired in the performance of this Agreement.

NAPA agrees to properly secure at all times any computer systems (hardware and software applications), third party hosting or cloud services, or electronic media that it will use in the performance of this Agreement, and shall ensure that any third party hosting or service providers with access to PII adhere to the terms of this Attachment C. This includes ensuring all security patches, upgrades, and anti-virus updates are applied as appropriate to secure PII that may be used, transmitted, or stored on such systems in the performance of this Agreement.

NAPA is prohibited from storing unencrypted PII on portable media including, but not limited to, laptops, thumb drives, disks and so forth. All PII shall be encrypted during transport, transmission, and in storage. NAPA

Notwithstanding anything to the contrary in Article 14. Records, of this Agreement, NAPA agrees to retain PII for no longer than the length of this Project, through June 30, 2028. At the conclusion of this retention period, NAPA agrees to use purge methods described in National Institute of Standards and Technology (NIST) Special Publication 800-88, as may be revised or superseded (“NIST Publication”) to remove PII from any files. Discarded PII will be unavailable and unrecoverable following the purge on any storage media including, but not limited to, magnetic disk, optical disk, memory chips, cloud storage, or other computing system (“Storage Media”). NAPA agrees to destroy hard-copy documents containing PII by means of a cross-cut shredding machine. NAPA also agrees to use purge or destroy methods, as described in NIST Publication, to sanitize any Storage Media prior to disposal (including selling, discarding, donating, transferring, and abandoning). At the conclusion of the performance period of this Agreement, NAPA shall submit a certification to the BAHFA Project Manager as follows: “All PII whether in electronic or hard-copy format, has been destroyed in accordance with the requirements contained in Section 2. Protecting PII of Attachment F, Special Conditions Relating to Personally Identifiable Information.” These requirements shall survive termination or expiration of this Agreement.

3. Compliance with Statutes and Regulations:

NAPA agrees to comply with the information handling and confidentiality requirements outlined in the California Information Practices Act (Civil Code sections 1798 *et seq.*) In addition, NAPA warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and BAHFA relating to the handling and confidentiality of PII, including the terms and conditions contained in this Attachment F, Special Conditions Relating to Personally Identifiable Information and agrees to indemnify, hold harmless, and defend BAHFA against any loss, cost, damage or liability by reason of NAPA’s violation of this provision.

4. Subconsultants:

BAHFA’s approval in writing is required prior to any disclosure by NAPA of PII to a subconsultant or prior to any work being done by a subconsultant that entails receipt of PII. Once approved, NAPA agrees to require such subconsultant to sign an agreement in substantially identical terms as this attachment, binding the subconsultant to comply with its provisions.

5. NAPA Guarantees:

NAPA shall not, except as authorized or required by its duties by law, reveal or divulge to any person or entity any PII that becomes known to it during the term of this Agreement.

NAPA shall keep all PII entrusted to it completely secret and shall not use or attempt to use any such information in any manner that may injure or cause loss, either directly or indirectly, to BAHFA.

NAPA shall not use or process PII for any purpose other than performance of the scope of work set forth in this Agreement.

NAPA shall ensure that all PII that is stored, processed, or transmitted is encrypted, using at least then-current best industry practices (or encryption methods mandated by law, whichever provides higher levels of protection).

NAPA shall comply, and shall cause its employees, representatives, agents, subconsultants and subcontractors to comply, with such directions as BAHFA may make to ensure the safeguarding or confidentiality of PII.

If requested by BAHFA, NAPA shall sign an information security and confidentiality agreement provided by BAHFA and attest that its employees, representatives, agents, subconsultants and subcontractors involved in the performance of this Agreement shall be bound by terms of a confidentiality agreement with NAPA substantially the same in its terms.

6. Notice of Security Breach

NAPA shall immediately notify BAHFA when it discovers that there may have been a breach in security which has or may have resulted in unauthorized access to PII. For purposes of this section, immediately is defined as within two hours of discovery. The BAHFA contact for such notification is as follows:

Privacy Officer
privacyofficer@bayareametro.gov
(415) 778-6700

ATTACHMENT G
Subconsultant List

	<u>Name/Address of Subconsultant</u>	<u>Amount of Subcontract</u>	<u>Description of Work</u>
1.	On the Move	TBD	Program Application and Enrollment; Program Delivery and Social Service Engagement
2.	Fair Housing Napa Valley	TBD	Program Delivery and Social Service Engagement
3.	Up Valley Family Center	TBD	Program Application and Enrollment; Program Delivery and Social Service Engagement
4.	Napa County Recovery Center	TBD	Program Application and Enrollment; Program Delivery and Social Service Engagement
5.	Collabria Care	TBD	Program Application and Enrollment
6.	Comprehensive Services for Older Adults Division of the Napa Health and Human Services Agency	TBD	Program Application and Enrollment
7.	Self Sufficiency Division of the Napa County Health and Human Services	TBD	Program Application and Enrollment
8.	Abode Services	TBD	Outreach and Social Supports Referral Network
9.	Adult Protective Services	TBD	Outreach and Social Supports Referral Network
10.	Mentis Mental Health Services	TBD	Outreach and Social Supports Referral Network
11.	Bay Legal	TBD	Outreach and Social Supports Referral Network
12.	OLE Health	TBD	Outreach and Social Supports Referral Network
13.	Area Agency on Aging, Information, and Assistance Program	TBD	Outreach and Social Supports Referral Network
14.	Puertas Abiertas	TBD	Outreach and Social Supports Referral Network
15.	Rianda House	TBD	Outreach and Social Supports Referral Network
16.	Queen of the Valley Care Network	TBD	Outreach and Social Supports Referral Network
17.	Community Action Napa Valley Food Bank	TBD	Outreach and Social Supports Referral Network

BAHFA's payment to NAPA under Section 3. Compensation and Method of Payment in this Agreement shall not be used to pay any subconsultant. NAPA's Scope of Work includes a \$1.6 million contribution of in-kind services to the administration of Napa Pilot Program, through service contracts, fee for service agreements, and MOUs, with the existing service providers identified above.

ATTACHMENT H

State Required Clauses

FAIR EMPLOYMENT PRACTICES

1. In the performance of this Agreement, NAPA shall not discriminate against any employee for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g. cancer), age (over 40), marital status, and denial of family care leave. NAPA shall take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability (including HIV and AIDS), medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. NAPA shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. NAPA, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each of the NAPA'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements as appropriate.

3. NAPA shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. NAPA shall permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which NAPA was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that NAPA has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate funding for this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by NAPA and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to NAPA, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure NAPA's breach of this Agreement.

