

NAPA COUNTY AGREEMENT NO. 240226B
LEASE AGREEMENT

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

TERMS

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

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

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

3. **RENTAL AND DEPOSIT:**

a. The rent for the Demised Premises shall be in the amount of **Fourteen Thousand Five Hundred dollars (\$14,500)** per month with base rent escalation of 3% per year. Lessee shall pay the first month's rental payment upon execution of the Lease. In the event the Lessee exercises the option to extend, the monthly rental amount shall be automatically adjusted as of January 1, 2029, with annual rent escalations of three percent (3%), or Bureau of Labor Statistics Consumer Price Index for the San Francisco Area, whichever is greater.

b. Lessee shall also pay a deposit equal to the first month's rent as security for Lessee's faithful performance of its obligations under the Lease ("Security Deposit,") due upon execution of the Lease. If Lessee fails to pay rent, or otherwise defaults under this Lease, Lessor may use, apply, or retain all or any portion of the Security Deposit for the payment of any amount already due Lessor for rents which will be due in the future, and/or to reimburse or compensate Lessee for any liability, expense, loss, or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within ten (10) days after written request therefore deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. Within ninety (90) days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall not be required to keep the Security Deposit separate from its general accounts. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

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

5. **FURNISHINGS, FIXTURES AND EQUIPMENT FURNISHED BY LESSOR:**

a. **Heating, Lighting, Water, and Electrical Service:** It is understood and agreed that Lessor will provide satisfactory and adequate heating, lighting, air conditioning, water, and electrical service facilities for the Demised Premises. Lessor agrees to maintain such facilities in reasonably good working order, repair, and operation during the term of this Lease.

b. **Payment of Utility Bills and Services:** Utility services shall be paid for as follows:

1. **Water and Sewer Service.** Lessee shall be responsible for the cost of furnishing water to the Demised Premises for normal office use and shall pay all sewer charges.

2. **Gas and Electricity Service.** Lessee shall pay for all gas and electricity furnished to the Demised Premises.

c. **Taxes:** Lessor shall pay all City, County, State, or Federal taxes of any type whatsoever relating to the Demised Premises, the building which the Demised Premises are contained within, and appurtenances thereto.

d. **Custodial and Garbage Service.**

1. **Custodial Service.** Lessee shall pay for custodial services.

2. **Garbage Service.** Lessee shall pay for garbage service.

6. **USE OF LEASED PREMISES:** Lessee will use the Demised Premises for the conduct and operation of County business or any other lawful purpose of Lessee, including but not limited to the intent as of the date of execution of this Agreement to use the Demised Premises to house the programs listed in Paragraph 1. Lessor shall provide Lessee access to the Demised Premises 24 hours per day, 365 days per year. The Lessee may not do, bring, or keep anything in or about the Demised Premises that will cause an increased premium for or the cancellation of any of the Lessor's insurance covering the Demised Premises. If the Lessee does cause any such increase in insurance premiums, the Lessee shall pay or reimburse Lessor for the entire amount thereof, without regard to whether Lessor elects to terminate this Agreement as a result of Lessee's unauthorized use of the Demised Premises.

a. **Hazardous Substances.** Lessee shall not generate, handle, store, or dispose of any Hazardous Substance on, under, or in the Demised Premises or on the real property upon which the Demised Premises are situated. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material, which is or becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup. Lessee agrees to hold harmless, protect, indemnify, and defend Lessor from and against any damage, loss, claim, or liability resulting from any breach of this covenant, including any attorneys' fees and costs incurred. This indemnity will survive

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

7. **ALTERATIONS:** Lessee shall not alter, change, or modify the Demised Premises in any manner or permit any alterations without the written consent of Lessor except for nonstructural alterations to the interior of the Demised Premises, which Lessee requires in order to conduct its business on the Demised Premises, for which prior consent of the Lessor shall be required. For the purpose of this Paragraph, all interior walls shall be considered structural improvements. In either event, any alteration or additions shall become the property of Lessor with the exception of personal property that can be removed without injury to the Demised Premises, which shall remain the property of Lessee.

8. **ASSIGNMENT:** Lessee shall not assign or encumber its interest in this lease or sublet to anyone, other than the Napa County Fire Department, without prior written consent of Lessor, which the Lessor may withhold at its sole and absolute discretion. Any assignment, encumbrance, or sublease without Lessor's consent shall be voidable and, at Lessor's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this Paragraph.

9. **MAINTENANCE:** Lessor agrees to maintain in good condition the exterior of the Demised Premises, including walls, roof, glass windows, paving, walks, and halls. Lessor agrees to provide and properly care for and maintain all walkways and all grounds landscaping. Lessee shall be responsible for interior maintenance, including plumbing blockages due to Lessee use, janitorial requirements, light bulb replacements, and overloaded electrical circuits. Lessee agrees to maintain the interior of the Demised Premises in good condition and repair, subject to reasonable use and wear thereof. Excluding any major repairs to the Demised Premises caused by the Lessee's excessive wear and tear, intentional acts, or acts of negligence, all major repairs shall be covered by the Lessor. For the purpose of this Agreement, "major repairs" are those repairs to the Demised Premises that would cost the County of Napa \$5,000 or more, including the payment of prevailing wage, regardless of whether Lessor is required to pay such wages.

10. **LEASSEE'S REMEDIES:** Lessor shall have 30 days after notice from Lessee to commence to perform its obligations under paragraphs 5 and 9, except that Lessor shall perform its obligations immediately if the nature of the problems presents a hazard or emergency or renders the Demised Premises uninhabitable. If Lessor does not perform its obligations within the time limitations in this Paragraph, Lessee shall notify Lessor of its default of this Agreement, and Lessor shall have five (5) days to commence repairs. If Lessor does not commence repairs within said five (5) days from default notice, Lessee may perform the obligations and be reimbursed by Lessor for the sum Lessee actually expends in the performance of Lessor's obligations. If Lessor does not reimburse Lessee within 30 days after demand from Lessee, Lessee shall have the right to withhold from future rent due the sum Lessee has expended until Lessee is reimbursed in full.

11. **HOLD HARMLESS AND INSURANCE:**

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

b. Liability Insurance. Lessor and Lessee each agree to maintain general liability insurance in the amount of one million dollars (\$1,000,000) during the term of this Agreement covering liability for acts or omissions by each respective party or its officers, agents or employees in relation to the portions of the Demised Premises then being leased which cause personal injury (including death) or property damage to any person. Notwithstanding the foregoing, Lessor recognizes that Lessee is self-insured for general liability up to \$300,000 and agrees that such self-insurance satisfies Lessee's obligations under this subsection up to that amount. Upon written request from Lessor, Lessee shall name Lessor as an additional insured and provide a Certificate of Coverage for the insurance coverage obtained by Lessee above this self-insurance amount.

12. **COUNTY REAL PROPERTY LEASE ANNUAL INSPECTION:** Lessee's Public Works Property Management Division staff ("Division staff") shall have unobstructed access to the Demised Premises for visual observation and non-intrusive physical examination of the subject areas during annual walk-through inspections. The intent of the annual inspection is to identify major health and safety concerns in locations leased from external entities where Lessee provides public service, living environments, or work environments. Division staff will contact Lessee to arrange a mutually agreeable date and time for the annual inspection. If conditions are identified during the annual inspection that would threaten the health and safety of Lessee's staff or any members of the public, and those conditions are within the responsibilities of the Lessor under this Lease, Division staff will report said deficiencies to Lessor within five (5) business days of the date of the annual inspection. The report will specifically identify the deficiencies and establish a reasonable time frame for Lessor to cure the deficiencies. The time frame for Lessor to cure deficiencies shall be reasonable and will reflect the seriousness of the issues identified and the impact to Lessee's programs.

13. **DESTRUCTION:**

a. If Repairable. If, during the term of the Agreement, the then-leased portions of the Demised Premises are totally or partially destroyed from any cause, rendering the Demised Premises totally or partially inaccessible or unusable, Lessor shall restore the Demised Premises to substantially the same condition as they were in immediately before the destruction if the restoration can be made under the existing laws and can be completed within 90 working days after the date of the destruction. In the event of such timely restoration, the destruction shall not terminate this lease.

b. If Not Timely Repairable. If the restoration cannot be made in the time stated in (a), above, then within sixty (60) days after the parties determine that the restoration cannot be made in the time stated in this paragraph, Lessee may terminate this Agreement immediately by giving notice to Lessor. If Lessee fails to terminate this Agreement and if restoration is permitted under the existing laws, Lessor, at its election, may either terminate this Agreement or restore the Demised Premises within a reasonable time and this Agreement shall continue in full force and effect. If the existing laws do not permit the restoration, either party may terminate this Agreement immediately by giving written notice to the other party.

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

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

LESSEE: Napa County Fire Department
Attn: Fire Administration
1195 3RD Street Suite 310
Napa, California 94559

LESSOR: H4IT Napa LLC.
226 Riviera Cir
Larkspur, CA 94939

15. **CANCELLATION:** If funds to meet the obligations under this Agreement were granted or contracted to Lessee by any agency of the State of California, any federal government agency, or other source, and such funds are reduced, discontinued, or otherwise become unavailable to Lessor during the term of the Agreement or any extension thereof Lessee shall have the right to terminate this Agreement by giving Lessor written notice of such termination at least thirty (30) days prior to the effective date of the termination. The notice of termination shall include a certification by the Napa County Executive Officer or designee thereof that sufficient funds have not been made available to Lessee to meet Lessee's future obligations under the Agreement. In the event of termination under this Agreement, Lessee shall not enter into a functionally similar agreement with a third party during the remainder of the then-current term, except that if during said period, funds again become available to Lessee, Lessee shall offer to execute a new agreement with Lessor to expire no earlier than the expiration date of this Agreement had it not been terminated under this Paragraph, and on the same terms and conditions as set forth in this Agreement. Lessor shall have the right to cancel this Agreement by giving sixty (60) days prior written notice delivered to the Lessee of such cancellation.

16. **DEFAULT:** If Lessee defaults in the payment of rent or in the performance of any of the other covenants or conditions of this Agreement, Lessor shall give Lessee notice of such default, and if Lessee does not cure such default within ten (10) days after the giving of such notice, then Lessor may either terminate this Agreement forthwith or continue this Agreement in full force and effect for such time as Lessor specifies by written notice to Lessee. Upon Lessor's election to terminate this Agreement due to default by Lessee, Lessee shall immediately quit and surrender the leased premises to Lessor. If this Agreement is terminated by Lessor for such default, Lessor may at any time thereafter resume possession of the leased premises by any lawful means, remove Lessee or other occupants and their effects, and accelerate all rent payments due hereunder which payments will then become immediately due and payable, or pursue any other remedy allowed by law. Lessee shall pay Lessor the costs of recovering possession of the Demised Premises, the expenses of reletting, and any other costs or damages arising out of Lessee's default. Notwithstanding any re-entry or termination, Lessee will remain liable for all sums Lessee is obligated to pay hereunder until the Demised Premises are re-let and a new lessee takes possession, or for the balance of the current lease term, whichever occurs first, and Lessee shall compensate Lessor for any deficiency arising from reletting the Demised Premises, provided, however, that Lessor shall use reasonable efforts to mitigate its damages.

17. **SURRENDER OF LEASED PREMISES UPON EXPIRATION OF LEASE AND HOLD OVER:** Upon expiration of this Agreement or termination thereof in relation to any portion of the leased premises in any lawful manner, Lessee shall surrender and deliver up the portion of the leased

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

18. **TIME OF ESSENCE**: Time is of the essence of each provision of this Agreement.

19. **INTERPRETATION OF LEASE**: This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

20. **INTEGRATED AGREEMENT**: This Agreement contains all the agreements of the parties and cannot be amended or modified except by a written amendment mutually agreed to by the parties.

21. **SEVERABILITY**: The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.

22. **WAIVER**: The waiver by either party of any provision of this Agreement at any time shall not be deemed to constitute any future waiver. Either party may strictly enforce the provisions of this Agreement at any time, irrespective of past conduct.

23. **ESTOPPEL CERTIFICATES**: Each party, within ten (10) business days of receipt of a request from the other party, shall execute and deliver to the other party, in recordable form, a certificate stating that this Agreement is unmodified and in full force and effect, or, if modified, stating the modifications. The certificate shall also state the amount of rent, the dates to which amounts due hereunder have been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the ten (10) business days shall be conclusive upon the party failing to deliver the certificate, that this Agreement is in full force and effect, has not been modified except as may be represented by the party requesting the certificate and that no prepayments of rent have been made. If a party fails to deliver the certificate within the ten (10) business days, then the party failing to deliver the certificate irrevocably constitutes and appoints the other party as its special attorney-in-fact to execute and deliver the certificate to any third party.

24. **SUBORDINATION**: Lessor shall have the right to subordinate this Agreement and the leases provided for herein to any ground lease, deed of trust, or mortgage encumbering the leased premises, any advances made on the security thereof, and any renewals, modifications, consolidations, replacements, or extensions thereof, whenever made or recorded. Lessee shall cooperate with Lessor and any lender which is acquiring a security interest in the leased premises or the Agreement, and Lessee agrees to execute and deliver to Lessor, without cost, within ten (10) days following Lessor's written request, any instrument that may be necessary to further effect the subordination of this Agreement and the leases provided for herein. Lessee shall execute such further documents and assurances as such lender may require, provided that Lessee's obligations under this Agreement shall not be increased in any material way (the performance of ministerial acts shall not be deemed

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

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

H4IT Napa LLC, a California Limited Partnership

By agent:

DocuSigned by:
BY: Anne Kennedy
Name: A95E723805C456...

"LESSOR"

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

BY: _____

BELIA RAMOS, Chair of the Board of Supervis

"LESSEE"

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Shana A. Bagley</u> Deputy County Counsel</p> <p>Date: <u>11/28/23</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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EXHIBIT "A"

