

NAPA COUNTY AGREEMENT NO. 240299B  
CITY OF NAPA AGREEMENT NO. C2024-046

## CONTRIBUTION AGREEMENT

This CONTRIBUTION AGREEMENT (“**Agreement**”) dated as of April , 2024, is made by and between Napa County, a political subdivision of the State of California (“**County**”), and the City of Napa, a California charter city (“**City**”), and addresses use of a combined total of up to \$1,500,000 in City Funds and County Funds to support the acquisition and rehabilitation of mental health treatment housing units by Mentis, a California nonprofit public benefit corporation (“**Mentis**”).

### RECITALS

**WHEREAS**, City and County agree that housing in the City and County for individuals receiving mental health treatment is in short supply; and

**WHEREAS**, City has received a \$750,000 Community Project Grant from the United States Housing and Urban Development Department for the acquisition and rehabilitation of housing units (“**City Funds**”); and

**WHEREAS**, County has available funds of up to \$750,000, that includes grants and other unrestricted funds budgeted within Health and Human Services Agency, for the acquisition and rehabilitation of housing units to match City’s contribution (“**County Funds**”); and

**WHEREAS**, subject to the terms and conditions set forth in this Agreement, the City and the County have agreed to use the City Funds and the County Funds to provide a loan of up to \$1,500,000 (the “**Loan**”) to assist Mentis in the acquisition and rehabilitation of the Housing Units (defined below); and

**WHEREAS**, the Loan would increase the likelihood of securing at least three (3) residential units for six (6) individuals receiving mental health treatment in the City and County and to prepare for County’s CARE Court mandates; and

**WHEREAS**, City and County agree to require Mentis to use the Housing Units acquired using the Loan to expand needed placements to support individuals engaged in mental health treatment with County with priority given to CARE Court participants; and

**WHEREAS**, Mentis proposes to acquire the real property located at 35-37 Griggs Lane in the City of Napa, Napa County, California, known as Napa County Assessor’s Parcel No. 004-161-016 (the “**Property**”), consisting of three (3) apartments, to provide permanent supportive housing for a minimum of six (6) individuals receiving mental health treatment (the “**Housing Units**”); and

**WHEREAS**, using the City Funds and the County Funds, City shall provide the Loan to Mentis under the terms of this Agreement to purchase and rehabilitate the Housing Units; and

**WHEREAS**, upon Mentis' acquisition and rehabilitation of the Housing Units, County and Mentis shall negotiate and enter a Medi-Cal contract that expands County's existing contractor-operated mental health treatment housing programs; and

**WHEREAS**, to ensure the Housing Units are preserved for their intended use, City and County agree that a condition of the Loan shall be that Mentis record a fifty-five (55) year covenant and restriction that provides that the Housing Units will specifically be used for individuals engaged in mental health treatment within the County with priority given to CARE Court participants.

**NOW, THEREFORE**, in consideration of the foregoing, and other valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### **AGREEMENT**

**1. Term of the Agreement.** This Agreement shall be effective April 9, 2024, and shall expire on the date that the Loan is no longer outstanding.

**2. Scope of Work.**

#### **CITY**

(a) This Agreement does not obligate City to construct the Housing Units. City is responsible for providing Mentis the Loan in an amount up to \$1.5 million for the acquisition and rehabilitation of the Housing Units for use as mental health treatment housing in accordance with the terms of this Agreement.

(b) City shall regularly advise County of the progress being made by Mentis to acquire and rehabilitate the Housing Units for use as mental health treatment housing.

(c) City is solely responsible for entering into a loan agreement with Mentis for the purchase of the Property ("**Loan Agreement**"). The Loan shall be a 55-year forgivable, zero interest loan. The Loan proceeds may be used for the acquisition and rehabilitation of the Housing Units, and related costs, including but not limited to compliance with environmental review requirements and relocation expenses for at least three units to house at least six individuals earmarked for mental health treatment housing. The terms of the Loan shall be consistent with the requirements of the County and City joint underwriting guidelines for affordable housing projects. In connection with the Loan, (i) the City and Mentis shall execute an Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants ("**Regulatory Agreement**") to be recorded against the Property in the Official Records of Napa County requiring Mentis to use the Housing Units for tenants with mental illness who are in treatment programs within the County with priority given to CARE Court participants; and (ii) City shall require Mentis to grant to the City and County an option ("**Option**") to purchase the Property for an amount equal to the outstanding balance of the Loan at the time of exercise should any of the following occur (each an "**Option Event**"): (a) Mentis fails to commence occupancy and operation of the Housing Units by January 1, 2025 as such time may be extended with the consent of City, (b) Mentis ceases operating the Housing Units as mental health treatment housing during the term of the Regulatory Agreement, (c) Mentis directly or indirectly, voluntarily or involuntarily transfers or encumbers the Property without the consent of City and

County in violation of the Loan Agreement and the Regulatory Agreement; and (d) Mentis defaults under the Loan Agreement or the Regulatory Agreement and such default remains uncured following the expiration of the applicable cure period. Upon the occurrence of an Option Event, the City and County shall solicit a third party acceptable to the City and County to acquire the Property pursuant to the Option and assume Mentis' obligations under the Loan Agreement and the Regulatory Agreement for the remainder of the term of the Regulatory Agreement. If the City and the County are unable to locate an acceptable third party to assume such obligations within 120 days of the Option Event, the City shall have the first right to independently exercise the Option, and should the City decline to exercise the Option within 150 days following the occurrence of the Option Event, the City shall notify the County in writing. The County shall then have the right to exercise the Option until the date that is 180 days following the occurrence of the Option Event. With the City's and County's prior written consent, the Option may be assigned to a third party approved by the City and County that will assume Mentis' obligations under the Loan Agreement and the Regulatory Agreement for the remainder of the term of the Regulatory Agreement. Alternatively, the City and County may agree in writing to terminate the Regulatory Agreement, discontinue use of the Housing Units as mental health treatment housing, and mutually agree upon the sale or an alternate use of the Property. In such event, if the Property is sold, the net sale proceeds will be distributed equally to the City and the County. If a third party does not assume Mentis' obligations under the Loan Agreement and the Regulatory Agreement, and the Property is not sold, then (a) if the City obtains ownership of the Property, the City will repay the County Funds to the County, and (b) if the County obtains ownership of the Property, the County will repay the City Funds to the City.

(d) City shall provide County with copies of the Loan Agreement, Regulatory Agreement and other Loan documents (collectively, "**Loan Documents**") prior to execution by Mentis, and will provide County with copies of the executed Loan Documents.

(e) City will provide notice to County of any default arising under the Loan Documents concurrently with provision of notice to Mentis or its successor in interest.

(f) City is solely responsible for complying with the terms and conditions of the Community Project Grant from the United States Housing and Urban Development Department and any other City funds used for the acquisition and rehabilitation of the Housing Units.

**COUNTY** The County's obligation under this Agreement is limited to (1) transferring up to \$750,000 in funding to the City to support the acquisition and rehabilitation of the Housing Units under this Agreement, and (2) expanding the existing Medi-Cal agreements with Mentis to provide owner operated mental health treatment housing to include the Housing Units acquired and rehabilitated under this Agreement.

### **3. Contribution.**

(a) County Funds. County shall transfer \$550,000 to City within thirty (30) days of the execution of this Agreement to fund Mentis' acquisition of the Housing Units. City shall provide County with its account information and wiring instructions necessary to make the transfer and invoices for amounts drawn against the initial contribution. County will transfer up to an additional \$200,000 to City to fund Mentis' rehabilitation of the Housing Units and other



project costs upon being invoiced for additional funds by City. Subsequent contributions shall be transferred to City within 30 days of receipt of City's invoice for the additional amounts.

(b) Maximum Contribution. Funding for the acquisition and rehabilitation of the Housing Units shall first come from the City's contribution, then the County's contribution. If the total cost of acquisition and rehabilitation is less than \$1,500,000, the remainder shall be refunded or retained by County. Notwithstanding the total cost of the acquisition and rehabilitation of the Housing Units, the maximum amount that County and City are required to contribute pursuant to this Agreement shall not exceed SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) each.

(c) Return of Contribution. If Mentis does not acquire the Housing Units by December 31, 2024, all funds advanced by County pursuant to this Agreement shall be returned to County.

**4. Eligible Project Costs.** The City shall apply County Funds only to provide a loan to Mentis for the acquisition, rehabilitation, and related costs of the Housing Units for Mentis' treatment housing program.

**5. Default.** County shall be deemed to be in default if County's initial contribution is not transferred to City within 30 days of the effective date of this Agreement or subsequent contributions are not transferred within 30 days of receipt of City's invoice. County shall be deemed to be in default if County fails to enter into a Medi-Cal agreement for mental health treatment housing with Mentis within sixty (60) days of the issuance of a certificate of occupancy for the rehabilitated Housing Units. City shall provide written notice of the default; County shall have 30 days to cure the default.

City shall be in default should City fail to comply with the terms set forth in section 2 above. County shall provide written notice of the default. City shall have 30 days to cure the default.

**6. Indemnity.** To the extent permitted by law, the City shall defend at its own expense, indemnify, and hold harmless the County, its officers and employees from and against any and all liability, claims, actions, or proceedings, including litigation costs and reasonable attorney's fees, asserted or brought by or on behalf of Mentis with regard to the purchase and rehabilitation of the Housing Units purchased with the funding provided under this Agreement to the extent caused by the City's active negligence, sole negligence or willful misconduct.

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

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

County  
Jennifer Yasumoto  
HHSA Director  
2751 Napa Valley Corp. Dr.  
Napa, CA 94559

City  
Molly Rattigan  
Deputy City Manager  
955 School Street  
Napa, CA 94559

**8. Interpretation; Venue.**

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

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

**9. Access to Records/Retention.** The County, or their duly authorized representatives, shall have access to any books, documents, papers, and records of the City which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. Except where longer retention is required by any federal or state law, the City shall maintain all required records for at least three (3) years after the execution of this Agreement.

**10. Authority to Contract.** The County and the City each warrant that they are legally permitted and otherwise have the authority to enter and perform this Agreement.

**11. Compliance with Laws.** The City shall comply with all federal, state, and local laws, rules, and regulations applicable to the project.

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

**13. Attorney's Fees.** If either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

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

**15. Amendment of Agreement.** This Agreement may only be amended or modified by mutual agreement of the parties, in writing and signed by both parties.

**16. Entirety of Contract.** This Agreement constitutes the entire agreement between the parties regarding the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations, whether written or oral, among the parties with respect to the subject matter of this Agreement.

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

*SIGNATURES ON FOLLOWING PAGE*

**IN WITNESS WHEREOF**, this Agreement is executed by Napa County, acting by and through the Chair of the Board of Supervisors, and by the City of Napa through its duly authorized officer(s).

CITY OF NAPA, a California charter city

By:   
Steve Potter, City Manager

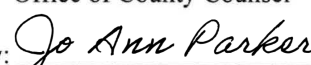
Approved as to form:

  
Sabrina Wolfson, Assistant City Attorney



NAPA COUNTY, a political subdivision of  
the State of California

By: \_\_\_\_\_  
JOELLE GALLAGHER, Chair  
Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By:  Deputy County Counsel</p> <p>Date: <u>April 17, 2024</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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