



A Tradition of Stewardship  
A Commitment to Service

## **Request for Proposal**

### **Training and Organizational Development Services**

RFP Number: CEO071801

Release Date: Friday, July 13, 2018

Due Date: Friday, August 17, 2018

For information:

Marissa Murphy-Becerra, MPA  
Training and Organizational Development Manager  
County Executive Office  
1195 Third Street, Third Floor  
Napa, California 94559  
Phone | 707.253.4477  
Email | [Marissa.Murphy-Becerra@countyofnapa.org](mailto:Marissa.Murphy-Becerra@countyofnapa.org)

**A. Background & Purpose**

**Background**

Napa County is committed to creating training and development programs that build individual and organizational capacity. Since 2011, the County has been providing a tiered progressive leadership development program for all supervisory levels, starting with first-line supervisors to building to executive leadership development, in order to prepare current and future leaders.

Knowing that employees at every level of the organization are our most valuable asset, Napa County is looking to democratize talent development by bringing training opportunities on a variety of important topics to all employees in the future.

**Purpose**

The Napa County Executive Office is issuing this Request for Proposal (RFP) to solicit proposals from qualified training providers who have the capacity to develop and deliver virtual and instructor-led training aimed at building individual and organizational success in Napa County. A list of potential subject areas are provided in Attachment A, Section E.

**B. Term of Contract and Scope of Work**

Term of contract is anticipated to be three (3) years. See Attachment A for full scope of work.

**C. Schedule of Events\***

Friday, July 13, 2018	Request for Proposal released.
Monday, July 30, 2018	Questions Due by 5:00 pm (Pacific)
Thursday, August 2, 2018	Responses to questions will be published
Friday, August 17, 2018	Proposals due by 5:00 pm (Pacific)
August 17 – September 7, 2018	County review period & Negotiations.
Monday, September 10, 2018	Intent to Award Notifications sent out.
Tuesday, September 18, 2018	Contract approval and contract start date.

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

**D. Submission Process**

Respondents shall submit in a sealed envelope one (1) signed original RFP and five (5) copies to:

Marissa Murphy-Becerra, MPA  
Training and Organizational Development Manager  
County Executive Office  
1195 Third Street, Third Floor  
Napa, California 94559

Sealed envelope containing original signed RFP and copies should be marked as follows:  
"Training and Organizational Development RFP, Number CEO071801 "

Proposals received in the County Executive Office after Friday, August 17, 2018 at 5:00 p.m. will not be considered under any circumstances and will be returned to the sender.

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

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

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

#### **E. General Conditions**

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

(a)The information provided is genuine and not a sham, collusive, or made in the interest or in behalf of any party not therein named, and that the Respondent has not directly or indirectly induced or solicited any other respondent to put in a sham proposal, or any other respondent to refrain from presenting information and that the prospective provider has not in any manner sought by collusion to secure an advantage; and

(b)The Respondent has not paid or agreed to pay any fee or commission, or any other thing of value contingent upon the award of an exclusive operating area, to any employee, official, or existing contracting consultant of the County.

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

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

Proposals will become a public record and available for release to the public upon selection of a successful Respondent and an Intent to Award Notification is distributed. Respondents shall specify in their cover letter if they desire that any portion of their Proposal be treated as proprietary and not releasable as public information. If Respondent chooses to claim any information as proprietary, it must specify those sections in the cover letter and provide any

legal justification for treatment as such. However, respondents should be aware that all such requests may be subject to legal review and challenge. In such event, each Respondent shall be responsible for the legal defense against the release of their Proposal as public information.

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

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

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

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

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

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

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

**F. Security and Privacy.**

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

**G. Modification or Withdrawal**

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

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

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

### **I. Information Resource**

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

Marissa Murphy-Becerra, MPA  
Training and Organizational Development Manager  
County Executive Office  
1195 Third Street, Third Floor  
Napa, California 94559  
Phone | 707.253.4477  
Email | [Marissa.Murphy-Becerra@countyofnapa.org](mailto:Marissa.Murphy-Becerra@countyofnapa.org)

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

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

### **J. Organization of Proposal**

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

**Interested firms should review Attachment A (Scope of Work) and Attachment B (Company History, Experience, and Qualifications) in consideration of response.**

1. Cover Page. Cover page shall state Title and RFP number “Training and Organizational Development RFP, Number CEO071801” date of submission; and name and signature of the person who is authorized to make decisions and represent the submitting firm with respect to this RFP.

2. Company Information. This section shall state:

- a. The legal name of the company which can enter into a contract with the County and any alternate names for which the company is known (D.B.A.);

- b. Mailing, and physical address(es);
- c. Remit-to billing address;
- d. Phone, fax, and website (if applicable);
- e. Organization type;
- f. Federal I.D. number
- g. List of owners;
- h. List of corporate officers with titles (if applicable); and
- i. Name (first and last), title, mailing address, phone number, fax and email of the person to receive notices and who is authorized to make decisions or represent the company with respect to this RFP

3. Company History, Experience, and Qualifications See Attachment B

This section shall consist of the information requested in Attachment B (Company History, Experience, and Qualifications) to allow for review of company history, experience, and qualifications other than proposed pricing. Each question/information request should be copied into proposal with answers following each request.

4. Proposed Programmatic Elements. This section shall include a description of your firm's overall philosophy and approach to training. Also included shall be either a training outline for each course and/or a training description. You will need to clearly identify the specific training areas and subject matters for which you are able to provide training. Your response to this section should be specific and tailored to the Scope of Work, in Attachment A.

5. Pricing Information/Structure. This section shall communicate your proposed price for required services.

6. References. Provide three (3) references (company, contact, phone number, date(s) and description of service(s) provided). References should be entities for which similar work has been completed.

7. Disclosures. A complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or a verification of no responsive incidents. Failure to comply with the terms of this provision may disqualify any proposal. The County of Napa reserves the right to reject any proposal based upon the Proposer's prior history with the County of Napa or with any other party, which documents, without limitation, unsatisfactory performance, significant failures to meet contract milestones or other contractual failures.

**If there are no disclosures to report, this section must still be included in submittal with an indication that there are no reportable disclosures.**

8. Insurance Requirement. This section shall contain a written statement indicating proposer's willingness and ability to meet all of the County's insurance requirements as indicated in Attachment C, Section 7.

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

Failure to meet the County's insurance requirements (as determined by County Counsel and County Risk Management) may be sufficient reason for disqualification from the selection process.

9. RFP Addenda, if any. Any and all addenda shall include an acknowledgment of receipt that must be returned. The acknowledgement form must be signed and attached to the final response. Failure to attach any acknowledgement form may result in the rejection of the final response (See section L).

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

**K. Evaluation Process.**

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

- Company History, Experience, and Qualifications (*See Attachment B*) – **20 points**
- Proposed Programmatic Elements, including potential for vendor to provide training on multiple topic areas - **50 points**
- Pricing / Rate Proposal – **30 points**

**L. Award**

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

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

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

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

### **M. Protests or Objections**

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

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

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

Any protest shall include the following information:

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

### 2. Resolution Process

- (a) Informal Resolution. Upon receipt of protest, the Purchasing Agent will convene, at the earliest possible convenience, discussions between the protesting party and appropriate County staff to seek informal resolution and/or to clarify the issues.
- (b) Response to Protest/Appeal. If the protest is not resolved by mutual agreement, the Purchasing Agent shall provide a written response to the protesting party within fifteen (15) working days following the informal meeting. County Counsel shall be consulted before the written response is issued.

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

### 3. Appeal to the Board of Supervisors

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

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

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

#### Stay of Procurement Action During a Protest

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

#### **N. RFP Addenda.**

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

#### **O. Local Vendor Preference.**

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

**P. Attachments**

- A. Project Description and Scope of Work
- B. Company History, Experience, and Qualifications
- C. Professional Services Agreement (PSA) Example

## ATTACHMENT A

### PROJECT DESCRIPTION and SCOPE OF SERVICES

Napa County is committed to creating training and development programs that build individual and organizational capacity. Since 2011, the County has been providing a tiered progressive leadership development program for all supervisory levels, starting with first-line supervisors to building to executive leadership development, in order to prepare current and future leaders.

#### A. Scope of Services | What Are We Buying

Knowing that employees at every level of the organization are our most valuable asset, Napa County is looking to democratize talent development by bringing training opportunities on a variety of important topics to all employees in the future.

Napa County is seeking qualified firms to submit proposals to conduct customized instructor led, web-based, and/or blended learning supervisory/managerial, leadership, and general business skills training.

#### 1. Training Content

A. Successful proposer(s) must have their own training content, provide certified trainers for third party content, and/or be willing to create and modify content based on the needs of the organization, and feedback from employees and County staff, without charging fees for curriculum design and/or modification.

B. Each course must identify learning objectives, designed for the participant to utilize the learning in the workplace.

#### 2. Training Format(s)

Training formats can be any of the following.

A. Classroom / Instructor-Led – Offered in a short course format.

B. Blended learning – Combining face-to-face classroom with e-learning activities to form an integrated instructional approach.

C. Webinar – interactive, web-based video conference, with interactive tools/approaches to engage learners and enhance learning.

#### 3. Training Duration

A. Training duration can be of any length; however, shorter learning modules are preferred. (I.e. one – two hour(s), half day, full day, 2-4 half-day sessions, etc.)

#### 4. Training Size

A. Unless otherwise agreed, the minimum requirement to host a course is ten.

B. Computer based training must be able to accommodate up to 20 staff at a time.

C. The number of attendees for all other courses must be mutually agreed upon prior to scheduling the training course. The number of attendees will be determined based on a number of factors including – topic, training activities, format, location / room restrictions, etc.

#### 5. Training Schedule

A. Successful proposer(s) must be available to provide training during regular business hours (Monday – Friday 8:00 AM – 5:00 PM).

B. Successful vendors must also be able to provide possible training dates at least three (3) months prior to schedule start date.

#### 6. Training Location

A. Onsite, Classroom / Instructor-Led training must take place in the County of Napa. Training will primarily take place at the County's Administrative Campus, located at 1195 Third Street, Napa and/or at the County's South Campus, located at 2751 Napa Valley Corporate Dr, Napa.

#### B. Roles and Responsibilities

##### 1. Trainer Knowledge, Skills, and Abilities

A. All trainers must be highly qualified individuals with experience and/or expertise in the subject matter, as well as experience applying the subject matter in the public sector arena.

B. Trainers should have knowledge of and experience with audio/visual equipment and technology.

C. Instructor shall demonstrate active listening and facilitation skills, communicate effectively both orally and in writing, and speak effectively before large and small groups. In addition, trainers should perform the role of facilitator, and effectively utilize group dynamic skills and techniques.

##### 2. Produce and provide all Training Materials

A. Vendors/Trainers must prepare and provide all course materials. This includes preparing all participant materials (guides, handouts, exercises, books, job aides, etc.) The cost of materials must be included in the total cost of the course.

B. All instructors shall maintain and update each training syllabus, introduce and follow objectives for each class, complete training as described, and utilize training aids.

## C. Performance Expectations and Deliverables

### 1. Contractor Responsibilities

The Contractor/Vendor, and its designated staff, shall be responsible for the following:

#### A. Review and Evaluation

1. Following each course, all training providers must agree to providing attendees with a training evaluation.
2. Based on the feedback in the evaluation, and the requirement posited in Section 1 Scope of Service, (1) Training Content (A), the vendor/trainer must be willing to modify content without charging fees for curriculum design and/or modification.

### 2. County Responsibilities

The County, and its designated staff, shall be responsible for the following:

#### A. Cancellation Clause

##### 1. Notification of Cancellation/Low Enrollment

If enrollment is low (below the minimum ten (10) participant requirement), the County will notify the vendor at least ten (10) business days prior to the course date with no penalty.

#### B. Access to County Facilities

1. County staff will ensure that Vendors/Trainers are provided with adequate instructions/information to permit sufficient access to designated County facilities/training rooms, as necessary.

#### C. Set Up

1. County staff will be responsible to for setting up the training classroom to include tables, chairs, white boards, flip charts, markers, sign-in sheets, and computers (where designated and needed to conduct training.)

### D. Period of Performance and Deliverable Dates

#### A. Commencement of Service

County Staff will work with selected Vendors/Trainers to begin calendaring training immediately following the Contract Award.

#### B. Training Calendar

County Staff will work with selected Vendors/Trainers to calendar training topics, dates, and locations, at minimum, on a quarterly basis. Calendar dates, weeks or months after award.

### E. Potential Training Topics

Provided below is a list of potential training topics. As organizational and team needs arise, additional training may be added to the list and/or requested of selected Vendors. Vendors are invited to submit content and qualifications to train on other, related topics.

Active Listening	Feedback
Appreciative Inquiry	Foundations of Supervision
Build Productive Teams through Improved Communication	Giving and Receiving Feedback
Building and Cultivating Trust for Leaders	Goal Setting & Performance Management
Building Relationships and Credibility	Hiring High Performing Employees
Business Etiquette	Interviewing Techniques
Business Grammar	Leading Positive Change
Business Writing Skills	Listening Skills
Career Planning and Development	Managing Organizational Change
Case Management	Motivational Interviewing
Change Management	Networking
Clear and Concise Writing	Onboarding
Coaching and Mentoring	Outlook – Introduction through Advanced
Collaboration and Team Building Skills	Personal Accountability
Communication Strategies	PowerPoint – Introduction through Advanced
Conflict Management	Problem Solving
Creative Problem Solving	Professionalism in the Workplace
Cultural Intelligence & Inclusion	Project Management
Data Analysis and Decision Making	Recognizing and Responding to Conflict
Decision Making	Resume Writing
Difficult Conversations	Self-Awareness
DiSCovering Yourself	Servant Leadership
Effective 1:1 Meetings	Strategic Planning
Effective Communication	Strengths Based Leadership
Effective Meeting Management	Strengths Finder
Effective Presentation Skills	Supervising and Managing Skills
Emotional Intelligence	Supervising Others
Employee Engagement	Team Development
Ethical Decision Making	Team Dynamics
Employee Engagement	Tell Our Story Through Data
Ethical Decision Making	Time Management
Excel – Introduction through Advanced	Using Data to Make Decisions
Excellent Customer Service	Vision and Strategy
Facilitation Skills	Word – Introduction through Advanced

## **ATTACHMENT B**

### **ATTACHMENT B**

#### **COMPANY HISTORY, EXPERIENCE, AND QUALIFICATIONS**

1. Please provide a description and brief history/background of your company. Included in this should be the number of years in business; list of owners; board of directors, if applicable; key company personnel; number of total employees (both company wide and those working out of the office, warehouse, or depot from where services for this contract will originate). Also include number of staff who provide training (both company wide and those working out of the office, warehouse, or depot from where services for this contract will originate). **(10 Points)**

2. Please describe background, experience, qualifications, technical capabilities, internal training programs, safety programs, and expertise providing customized instructor led, web-based, and/or blended learning supervisory/managerial, leadership, and general business skills training. Experience and qualifications of key field personnel should be included. A description of your customer service approach and process, should be included. Any current or past contracts with government agencies can be listed and described in this section. Licensing and certification, if applicable, shall also be described in this section. Attention to the details provided in Attachment A – Scope of Work should be considered with your response. **(10 Points)**

**ATTACHMENT C**

**PROFESSIONAL SERVICES AGREEMENT (PSA) EXAMPLE**

**NAPA COUNTY AGREEMENT NO. \_\_\_\_\_**

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and \_\_\_\_\_ "doing business as \_\_\_\_\_"; "whose mailing [or business] address is \_\_\_\_\_, hereinafter referred to as "CONTRACTOR";

**RECITALS**

**WHEREAS**, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to \_\_\_\_\_; and

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

**TERMS**

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

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on \_\_\_\_\_, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination) or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONTRACTOR to COUNTY shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention).

The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed \_\_\_\_\_ additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30.

2. **Scope of Services.** CONTRACTOR shall provide COUNTY those services set forth in Exhibit "A", attached hereto, in addition to the RFP and CONTRACTOR's proposal, incorporated by reference herein..

3. **Compensation.**

(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rate of \_\_\_\_\_ at the rates \_\_\_\_\_ set forth in Exhibit "B", attached hereto and incorporated by reference herein.

(b) Expenses. No travel or other expenses will be reimbursed by COUNTY.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of \_\_\_\_\_ (\$\_\_\_\_\_) for professional services and \_\_\_\_\_ (\$\_\_\_\_\_) for expenses per fiscal year; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. **Method of Payment.**

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

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

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

(d) CONTRACTOR shall submit invoices not more often than \_\_\_\_\_ to the \_\_\_\_\_ who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor no later than fifteen (15) calendar days following receipt. A sample invoice showing the level of detail required is attached as Exhibit "C".

(e) Legal status. So that COUNTY may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR is or becomes a corporation during the term of this Agreement, proof that such status is currently recognized by and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the \_\_\_\_\_ upon request in a form satisfactory to the Napa County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by CONTRACTOR within the State of California.

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

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

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

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide COUNTY with certification of all such coverages upon request by COUNTY's Risk Manager.

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

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

(2) Professional Liability/Errors and Omissions. Professional liability [or errors and omissions] insurance for all activities of CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.

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

(c) Certificates of Coverage. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of COUNTY's Risk Manager, demonstrated by other evidence of coverage acceptable to COUNTY's Risk Manager, which shall be filed by CONTRACTOR with the \_\_\_\_\_ prior to commencement of performance of any of CONTRACTOR's duties.

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

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

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

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

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, COUNTY's Risk Manager, which approval shall not be denied unless the COUNTY's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of CONTRACTOR by this Agreement. At the option of and upon request by COUNTY's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects COUNTY, its officers, employees, agents and volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

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

**8. Hold Harmless/Defense/Indemnification.**

(a) In General. To the full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless the COUNTY and its officers, agents, employees, volunteers or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of, personal injury (including death), including but not limited to COUNTY employees, and the public, or damage to the property of any person or entity, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of CONTRACTOR includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, provided that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

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

**9. Termination for Cause.** If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within \_\_\_\_\_ ( ) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving \_\_\_\_\_ ( ) days prior written

notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). The Napa County Purchasing Agent or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for cause.

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

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

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

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

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

maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to COUNTY.

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

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

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

COUNTY

CONTRACTOR

[Name]

[Name]

[Address]

[Address]

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

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

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective August 23, 2005.

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

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires

access to any portion of the COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

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

## 15. Confidentiality.

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR which relates to COUNTY's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of COUNTY, expressed through its \_\_\_\_\_. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by COUNTY.

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

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of.

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

(c) Protection of County Data. If CONTRACTOR will be processing and storing the COUNTY's data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense

minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

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

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

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

**16. No Assignments or Subcontracts.**

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

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

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

**18. Interpretation; Venue.**

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

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting

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

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

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

(b) Documentation of Right to Work. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. CONTRACTOR shall make the required documentation available upon request to COUNTY for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall

include all of the provisions of this Paragraph 19 in all such subcontracts as obligations of the subcontractor.

(d) Prevailing Wages.

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

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

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

(4) Apprentices. CONTRACTOR shall be responsible for ensuring compliance with the provisions of Labor Code section 1777.5 relating to employment and payment of apprentices for work under this Agreement relating to land surveying and/or construction inspection if the total compensation to be paid CONTRACTOR for such work is \$30,000 or more.

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

21. **Access to Records/Retention.** COUNTY, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of

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

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

23. **Conflict of Interest.**

(a) Covenant of No Undisclosed Conflict. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. CONTRACTOR hereby covenants that it presently has no interest not disclosed to COUNTY and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as COUNTY may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

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

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

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

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

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

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

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

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

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

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

By \_\_\_\_\_  
[NAME], [Title]

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

By \_\_\_\_\_  
[NAME], [Title]

"CONTRACTOR"

NAPA COUNTY, a political subdivision of  
the State of California

By \_\_\_\_\_  
BRAD WAGENKNECHT, Chair  
Board of Supervisors

"COUNTY"

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

**SCOPE OF WORK**

CONTRACTOR shall provide COUNTY with the following services:

**I. DESCRIPTION OF SERVICES**

**[NOTE: INSERT A DESCRIPTION, PREFERABLY IN OUTLINE FORM, OF THE SERVICES TO BE PROVIDED. IF PAYMENT IS TO BE BY TASKS, THEN THE TASK DESCRIPTION IN THIS EXHIBIT SHOULD USE THE SAME NUMBERING SYSTEM AS THE TASK PAYMENT SCHEDULE IN EXHIBIT "B." IF CONTRACTOR'S PROPOSAL IS USED AS THE BASIS OF THE DESCRIPTION OF SERVICES, THE TERMINOLOGY IN THE PROPOSAL NEEDS TO BE CONFORMED TO THE TERMINOLOGY IN THE MAIN TEXT OF THE AGREEMENT—FOR INSTANCE, 'COUNTY' SHOULD BE USED RATHER THAN "NAPA COUNTY", "YOU" OR "CUSTOMER" OFTEN SEEN IN PROPOSALS; "CONTRACTOR" SHOULD BE USED RATHER THAN THE VENDOR'S ACTUAL NAME OR ACRONYM, "US", OR "WE" OFTEN SEE IN PROPOSALS; AND "WILL" SHOULD BE CHANGED TO "SHALL" WHENEVER IT REFERS TO SOMETHING WHICH CONTRACTOR IS REQUIRED TO DO UNDER THE AGREEMENT. IF THE PROPOSAL WAS SENT IN ELECTRONIC FORM, THESE CHANGES CAN BE MADE DIRECTLY IN THE TEXT, AND THE TEXT USED AS THE DESCRIPTION. OTHERWISE, THIS SECTION I OF EXHIBIT "A" CAN READ: "See Attached. For purposes of this Exhibit "A", references in the Attachment to \_\_\_\_\_ shall mean \_\_\_\_\_", WITH THE BLANKS SHOWING HOW THE TERMINOLOGY SHOULD BE CONVERTED.**

***[IF THE SCOPE OF WORK INCLUDES PREPARATION OF A DOCUMENT OR WRITTEN REPORT AND THE TOTAL COST OF THE WORK IS MORE THAN \$5,000, THE FOLLOWING PARAGRAPH MUST BE INCLUDED]***

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

**EXHIBIT “B”**

**COMPENSATION AND EXPENSE REIMBURSEMENT**

**[DELETE “AND EXPENSE REIMBURSEMENT” IF EXPENSES ARE NOT BEING REIMBURSED. THIS EXHBIT MUST DESCRIBE WHETHER PAYMENT IS FIXED PRICE OR BASED ON AN HOURLY NOT TO EXCEED AMOUNT. IF TRAVEL EXPENSES ARE INCLUDED, THE MAXIMUM PER DIEM AND MAXIMUM LODGING MUST BE SPECIFICALLY SET FORTH.]**

**EXHIBIT "C"**

**[Company Name]**  
 [Street Address]  
 [City, ST ZIP Code]  
 Phone [phone] Fax [fax]

**1 SAMPLE  
 2 INVOICE**

INVOICE # \_\_\_\_\_  
 DATE: \_\_\_\_\_

**2.1 To:**

[Customer Name]  
 [Street Address]  
 [City, ST ZIP Code]

**2.2 For:**

[Project or service description]  
 Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St,	Smith,			
1/1/15	Napa.	Engineer	1.5	\$165.00	247.50
1/1/15	Conf w/Owner	Smith,	1	\$165.00	165.00
	AutoCad, Bldg X, 3 <sup>rd</sup> Floor	Engineer	4	\$165,00	660.00
		Smith,			
		Engineer			
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15		Smith,			
1/2/15	AutoCad Bldg X, 3 <sup>rd</sup> Floor	Engineer	4	\$165.00	660.00
	Conf w/Owner re 2 <sup>nd</sup> Floor	Smith,	.5	\$165.00	82.50
		Engineer			
1/3/15	Mtg w/Jones re 2 <sup>nd</sup> Floor; conf	Smith,			
1/3/15	w/Owner	Engineer	1.5	\$165.00	247.50
	Mtg w/Smith; conf w/Owner re 2 <sup>nd</sup>	Jones, PE	1.5	\$195.00	292.50
	Floor				
<b>TOTAL</b>					





