



A Tradition of Stewardship  
A Commitment to Service

## **Request for Proposal**

### Labor Relations Consulting Services

Release Date: October 11, 2013

Due Date: November 12, 2013

For information: Karen Taylor  
Deputy Director of Labor Relations  
County Executive Office  
Human Resources Division  
(707) 259-4490  
[karen.taylor@countyofnapa.org](mailto:karen.taylor@countyofnapa.org)

## **SECTION 1 – INTRODUCTION**

### **A. Statement of Purpose**

The County of Napa (“County”) invites responses to a Request for Proposals (“RFP”) to interested parties to provide a Chief Labor Negotiator in representing Napa County in labor relations, consultation services and labor contract negotiation services, which include, but are not limited to, consulting with and advising the Board of Supervisors and the County Executive Officer, in employer-employee relations, and supporting the County in meeting and conferring in good faith with representatives of recognized employee organizations.

Responses must be submitted as detailed below, no later than the date and time stated in the RFP. No late proposals will be accepted

### **B. Description of Napa County**

A general law county, Napa County is governed by a five-member Board of Supervisors elected by district for four-year terms. The Board of Supervisors appoints a County Executive Officer who is responsible for providing overall management for County operations, including day-to-day supervision of the County’s appointed department heads.

The County has a budget of over \$452 million and 1,358 employees who provide services through 17 departments, 5 of which are managed by elected officials and the remainder managed by department heads appointed by the Board of Supervisors based on the recommendation of the County Executive Officer. County services include: mental health, public health, social services, child welfare and support, land use/permitting, road maintenance, animal control and shelter, corrections and jail, prosecution, public defender, sheriff patrol and coroner, elections, environmental management, airport operations, library services, and emergency operations.

The workforce is represented by two primary unions, Napa Association of Public Employees – Service Employees International Union 1021 (SEIU), including a regular and a supervisory unit, and the Deputy Sheriff’s Association, including a regular and supervisory unit. There are approximately 1,000 employees in the Napa Association of Public Employees – SEIU 1021 Union and 100 employees in the Deputy Sheriffs’ Association. The remaining employees are non-represented management or confidential employees.

**C. Proposed Schedule for the RFP Process:** The dates provided below are target dates for the events to occur. The County reserves the right to change these dates at any time.

October 11, 2013	Request for Proposal released
October 18, 2013	Interested parties notify County and questions submitted due by 5:00 p.m.
October 25, 2013	County will release answers to questions submitted to Interested Parties
November 12, 2013	Deadline to submit proposals
November 12, 2013 – December 13, 2013	County review period including interviews with most qualified proposers
Week of December 2, 2013	Interview panel (if required)
December 13, 2013 – January 3, 2013	Contract preparation with finalist
January 14, 2014	Contract presented to Board of Supervisors for approval
January 15, 2014	Contract start date

**C. Desired Qualifications**

The County is looking for a consultant with the following qualifications:

- Expertise in public employee labor relations;
- Experience in negotiating with SEIU and public safety unions or other similar unions;
- Proven track record for maintaining productive and respectful relationships with labor unions;
- Demonstrated creative approaches to meeting management and employee interests in a cost effective manner;
- Experience representing and advising public agencies comparable in size to the County of Napa;

- Experience working with Board members, County executives, and management representatives;
- Expertise in developing clear contract language;
- Capacity to devote needed time to County contract negotiations;
- Knowledge of and experience implementing recent legislative changes impacting public labor relations including impasse procedures, pension and health care reform.

#### **D. Submission Process and General Conditions**

1. All interested proposers should declare interest by 5:00 p.m. Pacific Standard Time (PST) October 18, 2013 to Karen Taylor, Deputy Director of Labor Relations I ([karen.taylor@countyofnapa.org](mailto:karen.taylor@countyofnapa.org)). Include firm name, contact person, phone number and email address.
2. All questions regarding the RFP are due by 5:00 p.m. PST on October 18, 2013. Questions are to be e-mailed to Karen Taylor, Deputy Director of Labor Relations ([karen.taylor@countyofnapa.org](mailto:karen.taylor@countyofnapa.org)). Answers to all questions will be e-mailed by October 25, 2013 to all interested proposers.
3. Respondents should submit six (6) copies of printed proposal and one electronic copy to:
 

Suzanne Mason, Director of Human Resources  
Napa County Human Resources Division  
1195 Third St., Suite 110  
Napa, CA 94559  
[suzanne.mason@countyofnapa.org](mailto:suzanne.mason@countyofnapa.org)
4. Deadline for submitting proposals: Tuesday, November 12, 2013 at 5:00 p.m. PST.
5. All costs of preparation of proposals including travel for any interviews scheduled shall be borne by the respondents.
6. All proposals become the property of the County of Napa. 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 bidder unless they are not submitted in a timely manner.
7. Proposals will become a public record and available for release to the public upon selection of a successful respondent and an agreement is reached.

8. The County reserves the right to award an agreement without further competition based on the responses received to this RFP.
9. The County reserves the right to request additional information not included in this RFP from any or all respondents after November 12, 2013.
10. The County reserves the right to contact references not provided in the submittals.
11. The County reserves the right to incorporate its standard language into any contract resulting from this Request for Proposal. The County's standard agreement language is attached as information only.

**E. Modification or Withdrawal of Qualifications**

At any time prior to the specified time and date set for the RFP 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.

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 time and date for submissions.

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

**F. Protests or Objections**

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:

- 1) The date and action taken resulting in a protest, and
- 2) Identification 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.

Protests on the qualifications review process will not be accepted.

### **G. RFP Addenda**

Any changes to the RFP requirement will be made by addendum. All addenda shall include an acknowledgement of receipt that must be returned. The addenda must be signed and attached to the final response. Failure to attach any addendum may result in the rejection of the response.

All addenda will be e-mailed to each identifiable respondent.

### **H. Information Resources**

Questions about this Request for Proposal shall be referred to:

Karen Taylor, Deputy Director of Labor Relations  
Napa County Human Resources Division  
1195 Third St., Suite 110  
Napa, CA 94559  
(707) 253-4490

[karen.taylor@countyofnapa.org](mailto:karen.taylor@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. For additional information regarding the services to be provided, please review the Scope of Work. 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.

### **I. Verbal Agreement or Conversation**

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. Proposal Submission

The County is not requesting a standard response format to this RFP. The proposal will be evaluated by the review committee and shall include, at a minimum, the following information:

1. **Service Description:** Describe the overall services your agency intends to provide.
2. **Organizational Background:** Describe your agency's history, mission, programs, and services provided, administrative structure, and experience providing similar services. Attach an organizational chart. Include detailed and relevant information that fully demonstrates that the proposer meets the criteria of experience set forth in the following section
3. **Experience Requirements:** Proposals should contain information reflecting but not limited to:
  - a. Regular and continuous engagement in the business of providing labor relations consulting services for at least five (5) years prior to the date of this RFP issue;
  - b. Knowledge of and experience in current employer-employee relations practices, trends and major problems, principles of labor negotiations, applicable federal and state labor laws, public and private sector labor practices, structure and operation of county government, and employee benefit and retirement programs.
  - c. High level skill and demonstrated experience in (1) standard principles of the collective bargaining process in the public and/or private sector, (2) serving as lead negotiator for a variety of labor negotiations and settlements encompassing a diverse range of employee organizations, (3) establishing cooperative labor-management relationships, (4) working cooperatively and discretely with elected officials and staff, (5) dispute resolution, and (6) written and oral communication including the development of contact language.
  - d. Extensive experience working in the public sector with elected officials and broad range of agencies.
4. **Staffing:** List the staff anticipated to perform the services including disciplines and degrees, as appropriate. Indicate the qualifications, training and experience of each team member, and provide a list of negotiator services performed during the past year by the personnel listed above, with

the name of the cities, counties and other government agencies, and or business entities, and a brief description of the scope of work.

5. **Costs:** Each proposal must include a detailed explanation of the cost to be charged to the County for consulting services outlined in the Scope of Services Section (Exhibit A).
6. **References/Examples:** Provide five (5) references for similar engagements that your firm and staff specified in proposal has worked with in the last three (3) years. Include in your description the name of the agency, size, array of services provided, key contact person, contact information and dates of service.
7. 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.
8. A current list of clients as well as clients over the past three years, including any clients that have terminated services.

## **K. Review of Proposals**

Proposals will be reviewed by a committee of subject matter experts and County representatives. Qualifications including specific experiences and successes, references, fees and familiarity with services requested will be evaluated. The committee will determine which proposals best meets the needs and requirements of the County. A Scope of Services is included to provide further information in assisting with the completion of the RFP (See Exhibit A – attached).

The review committee may select and recommend a respondent for a Labor Relations consultant agreement to the Board of Supervisors. While proposed compensation will be a factor, qualifications and experience of the firm and proposed staff in relation to the Scope of Work and the County's needs will be the primary selection criteria. Additionally, the review committee will determine whether respondents existing client list present a conflict to the County's needs and Scope of Work.

## **L. 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.

### **Attachments**

- A. Scope of work
- B. Standard Agreement

## **Attachment A**

### **Scope of Work**

1. Assist the Director of Human Resources, and/or her designees, in advising and consulting with the Board of Supervisors and the County Executive Officer on matters relating to employment conditions and employer-employee relations. This includes in-person and other consultations with Human Resources as deemed necessary by Human Resources personnel, including, but not limited to:
  - Meet with designated staff to define management goals and policy for union negotiations;
  - Provide research and consultation on current trends, practices, and community standards of other public employers on a variety of labor related issues;
  - Meet with designated staff to assist in formulating the management proposals for negotiations;
  - Participate in drafting proposals for negotiations;
  - Perform necessary fact research for negotiations;
  - Assist in the formulation and preparation of cost analysis of management and union proposals;
  - Provide to the Board of Supervisors and County Executive Officer progress reports, make recommendations, and receive direction; and
  - Provide consultation on grievance handling and other conflict resolution procedures.
2. Meet and confer in good faith for and on behalf of the County, as the designated representative of the Board of Supervisors, with representatives of recognized employee organizations of the County of Napa, including, but not limited to:
  - Attend negotiation sessions as the County's lead negotiator;
  - Serve as spokesperson for situational meetings and conferences as they arise, including, but not limited to, the impact of layoffs, statutory changes, pension modification, work schedule changes, revisions of departmental rules and staffing guidelines.
  - Act as the County's management advisor in mediation, fact finding and related procedures;

3. Assist the Director of Human Resources in reporting to the Board of Supervisors and the County Executive Officer on the progress of meeting and conferring in good faith with each of the recognized employee organizations.

**Attachment B**  
**Sample Standard Agreement**

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

**PROFESSIONAL SERVICES AGREEMENT**

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

**RECITALS**

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

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

**TERMS**

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

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on \_\_\_\_\_, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination) or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONTRACTOR to COUNTY shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention). **[IF THE TERM NEEDS TO ROLLOVER, ADD THE FOLLOWING]** 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, 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. Such notice of nonrenewal may be given on behalf of COUNTY by the Napa County Executive Officer or designee thereof. 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 and incorporated by reference herein.

3. **Compensation.**

(a) **Rates.** In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the [rate of \_\_\_\_\_] **[OR, IF THERE IS MORE THAN A SINGLE RATE, USE THE FOLLOWING]** [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. **[OR, USE THIS ALTERNATE LANGUAGE]** Travel and other expenses will be reimbursed by COUNTY upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the provisions set forth in Exhibit "B".

(c) **Maximum Amount.** Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement **[ADD "per fiscal year" IF PARAGRAPH 1 HAS AN AUTOMATIC ROLLOVER]** shall be a total of \_\_\_\_\_ (\$\_\_\_\_\_) for professional services and \_\_\_\_\_ (\$\_\_\_\_\_) for expenses; 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. **[DELETE THE TWO REFERENCES TO EXPENSES IF (b) SAYS NO EXPENSES WILL BE REIMBURSED]**

4. **Method of Payment.**

(a) **Invoices.** 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 or, where compensation is on a per-task basis, a description of the tasks completed during the billing period, the person(s) actually performing the services and the position(s) held by such person(s), and the approved hourly or task rate. Requests for reimbursement shall also describe the nature and cost of the expense and the date incurred. CONTRACTOR shall submit invoices not more often than monthly to the Director of Human Resources 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. **[DELETE ALL SENTENCES AND PHRASES IN THIS SUBPARAGRAPH WHICH REFER TO EXPENSES IF PARAGRAPH 3(b) DOES NOT PROVIDE FOR EXPENSE REIMBURSEMENT]**

(b) 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 **Director of Human Resources** 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. 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. **[NOTE: CONTACT COUNTY'S RISK MANAGER ABOUT WHETHER THIS TYPE AND AMOUNT OF INSURANCE IS RELEVANT TO THE SERVICES BEING PROVIDED. IF IT IS NOT, DELETE THE TEXT OF THIS SUBPARAGRAPH (2) AND ADD "[RESERVED]" NEXT TO THE NUMBER AND SUBHEADING. PROFESSIONAL LIABILITY INSURANCE IS GENERALLY ONLY REQUIRED WHERE CONTRACTOR PROVIDES LICENSED PROFESSIONAL SERVICES, WHEREAS ERRORS AND OMISSIONS INSURANCE MAY BE REQUIRED FOR CLAIMS ADJUSTMENT SERVICES AND CERTAIN OTHER SPECIALTIES.]**

(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 THREE HUNDRED THOUSAND DOLLARS (\$300,000) combined single limit per occurrence.

(c) Certificates. 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 **Director of Human Resources** prior to commencement of performance of any of CONTRACTOR's duties; 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. For the commercial general liability insurance coverage referenced in 7(b)(1) and, where the vehicles are covered by a commercial policy rather than a personal policy, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) 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, and 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. 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.

**[ATTENTION! DELETE SUBPARAGRAPHS (b) THROUGH (d) ABOVE AND REPLACE WITH THE FOLLOWING SUBPARAGRAPHS (b), (c) and (d) WHENEVER THE AGREEMENT IS BETWEEN THE CITY OF NAPA AND EITHER THE COUNTY OF NAPA, THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, OR ANY SPECIAL DISTRICT WHOSE GOVERNING BOARD IS THE BOARD OF SUPERVISORS]**

(b) **Liability Insurance.** Each party 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.** Each party shall obtain and maintain in full force and effect during the term of this Agreement commercial or comprehensive general liability insurance coverage (personal injury and property damage) of not less than TWO MILLION DOLLARS (\$2,000,000) combined single limit per occurrence, either issued by a company admitted to do business in the State of California and having an A.M. Best Rating of no less than A:VII or by self-insurance satisfactory to the other party's risk manager or employee designated by that party to perform such function, or by a combination thereof, covering liability 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 that party under this Agreement except for acts or omissions performed in strict compliance with express direction the other party's governing board, officers or personnel. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

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

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

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

**9. Termination for Cause.** If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within four (4) 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 three (3) days prior written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). 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 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 ten (10) days prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

If, during the term of this Agreement or any extension thereof subsequent to the first fiscal year during the term, COUNTY is unable to appropriate sufficient funds to meet its obligations to CONTRACTOR under this Agreement, such funds are not otherwise available to COUNTY for this purposes, and there are no other legal procedures or available funds by or with which such obligations can be met, and such non-appropriation of funds has not resulted from any act or omission within the control of COUNTY; or, if the funds appropriated to meet such obligations were granted to COUNTY by any agency of the State of California, any federal government agency, or other source and such grant funds are discontinued or otherwise become unavailable to COUNTY during the term of the Agreement or any extension thereof, COUNTY shall have the right to terminate this Agreement by giving CONTRACTOR written notice of such termination at least thirty (30) days prior to the effective date of the termination. In the event of such termination, COUNTY shall be obligated to CONTRACTOR only for payment of compensation and reimbursement of expenses for services satisfactorily completed or incurred and for which invoices are submitted as of the effective date of such termination. The notice of termination shall include a certification by the Napa County Executive Officer or designee thereof that sufficient funds have not been made available to COUNTY to meet COUNTY's future obligations under the Agreement. In the event of termination under this Agreement, COUNTY shall not enter into a functionally similar agreement with a third party during the remainder of the then-current term, except that if during said period, funds again become available to COUNTY for such services, COUNTY shall offer to execute a new agreement with CONTRACTOR for such services with CONTRACTOR to expire no earlier than the expiration date of this Agreement had it not been terminated under this Paragraph, and on the same terms and conditions as set forth in this Agreement.

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 Director of Human Resources. 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.

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 Director of Human Resources.

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

17. **Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only COUNTY, through its Board of Supervisors in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by Exhibit "A". Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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, 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.

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.

[

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

24. **Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party's job openings where such publication or distribution is directed to the public generally.

25. **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.

26. **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.

27. **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.

28. **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.

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

**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, EITHER**

**ADD A SECOND SIGNATURE LINE AND MAKE  
SURE THAT ONE SIGNATURE IS BY THE  
CORPORATION'S PRESIDENT, VICE-PRESIDENT  
OR CHAIRMAN AND THE OTHER IS BY THE  
SECRETARY, TREASURER OR CHIEF FINANCIAL  
OFFICER OR OBTAIN AUTHORIZATION FROM  
THE CORPORATION FOR A SINGLE PERSON OR  
POSITION TO SIGN THE CORPORATION'S  
CONTRACTS]**

By \_\_\_\_\_

[NAME] , [Title]

"CONTRACTOR"

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

By \_\_\_\_\_

Supervisors

, Chairman of the Board of

“COUNTY”

**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 THE "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]**