



**A Tradition of Stewardship
A Commitment to Service**

Request for Proposal

Property Title Search and Reporting Services

RFP Number: TTC101701

Release Date: October 6, 2017

Due Date: November 13, 2017

**For information: Lisa Soder
Assistant Treasurer-Tax Collector
(707) 253-4329**

treasurer@countyofnapa.org

Napa County is pleased to invite you to respond to a Request for Proposal for professional services for property title investigation and Parties of Interest reporting.

Proposals must be received no later than 5:00 p.m. on November 13, 2017.

A. Introduction/Purpose

The Napa County Treasurer-Tax Collector hereinafter referred to as "TTC" is issuing this RFP to solicit proposals from qualified firms hereafter referred to as "Vendor", to perform title searches and prepare tax sale reports on tax defaulted properties for the purposes of determining the identity of "parties of interest", in order to provide legally required notice of tax sales and the termination of the right to redemption of tax defaulted property. A full title search and party of interest report must be done for each parcel before it is sold in accordance with California Revenue and Taxation Code Sections 3701 and 4675 and as described in the Project Scope attached hereto as Attachment A. Vendors must be capable of providing all core services set forth in the Project Scope and indicate ability and pricing to perform additional services desired. A contract, if any, will be awarded to one qualified firm that best demonstrates the ability to meet the needs of the TTC.

1. Project Background and Description

The TTC is responsible for collecting current and delinquent taxes for real property and conducting the sale of Tax Defaulted properties that are subject to the Power of Sale pursuant to Chapter 7, Part 6, Division 1 of the California Revenue and Taxation Code and Chapter 8, Part 6, Division 1 of the California Revenue and Taxation Code. Properties that are subject to the power of sale may be sold via several tax sale formats, including live public auction, internet auction, sealed bid auction, and agreement sale.

Prior to the sale, regardless of tax sale format, the TTC is required to notify, pursuant to Revenue and Taxation Code Section 3701, all parties of interest, as defined by Revenue and Taxation Code Section 4675, to all or any portion of the properties offered at a tax sale. The TTC uses Title Search reporting in the form of a Parties of Interest Report, to identify all recorded documents affecting said property, all lien holders of record, and any persons with title of record, or an updated report (Date Down) to identify any documents that have been recorded subsequent to the original report.

The TTC requests Title Searches for parcels of property throughout Napa County. Searches are generally done at least once every two years, but no more than two times per year. Three to six months prior to the planned sale, the vendor is supplied with a list of tax defaulted

properties, typically 50 – 100 parcels; the sale is usually held in March or May and the re-offer sale 60 – 90 days later. After the Title Search and Parties of Interest Reports are completed for all of the parcels, the Vendor shall invoice the TTC. Invoices shall minimally have the Assessor’s Parcel Number (APN) and date the report was sent.

2. Desired Goals/Objectives/Outcomes

Upon selection of a successful Vendor, in accordance with the provisions of this RFP, the TTC will recommend the award of a three (3) year contract. The Contract will include, but is not limited to, the standardized provisions and the format set forth in the Sample Agreement in Attachment B of this RFP. The TTC makes no representation or warranty that any provisions in the Sample Agreement will not be excluded or modified, or that other provisions will not be included in any resultant contract. Upon approval and execution of the Contract, the TTC will administer and monitor same on behalf of the County.

B. Statement of Requirements - Services Required of Successful Proposer

Services required of the successful proposer are outlined in the Project Scope attached hereto as Attachment A.

C. Local 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.

D. Schedule*

<u>Date</u>	<u>Event</u>
<u>October 6, 2017</u>	Release Request for Proposals
<u>October 20, 2017</u>	Questions Due by 5:00 pm PST
<u>October 27, 2017</u>	County’s Responses to Questions Due
<u>November 13, 2017</u>	Proposals Due by 5:00pm PST

<u>November 14-17, 2017</u>	Proposals Evaluated by County
<u>November 17-22, 2017</u>	Negotiations and Contract Development
<u>November 22, 2017</u>	Notice of Intent to Award
<u>December 1, 2017</u>	Contract Awarded

*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.

E. Questions

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

Lisa Soder, Assistant Treasurer-Tax Collector

Email: treasurer@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.

Questions must be submitted in written or email format and received before 5:00 PM Pacific Time on October 20, 2017. The questions and answers pertaining to this RFP will be posted on the County's website at <http://www.countyofnapa.org/Procurement/> no later than October 27, 2017. All questions and answers will be attached to the RFP as an addendum.

F. Corrections and 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.

G. Proposal Submittal

1. **Form:** Proposers must submit one (1) original signed proposal and three (3) copies by November 13, 2017. Proposals must be enclosed in a sealed envelope or package and clearly marked **PROPERTY TITLE SEARCH AND REPORTING SERVICES, number TTC101701.**

Proposals shall be submitted to:

Lisa Soder, Assistant Treasurer-Tax Collector
Napa County Treasurer-Tax Collector's Office
RFP: Property Title Search and Reporting Services
1195 Third St, Suite 108
Napa, CA 94559

2. **Due Date:** Proposals must be received no later than 5:00 p.m. on November 13, 2017.
3. **General Instructions:** To receive consideration, proposals shall be made in accordance with the following general instructions:
 - a) The completed proposal shall be without alterations or erasures.
 - b) No oral or telephonic proposals will be considered.
 - c) The submission of a proposal shall be an indication that the proposer has investigated and satisfied him/herself as to the conditions to be encountered, the character, quality and scope of the work to be performed, and the requirements of the County, including all terms and conditions contained within this RFP.
 - d) All proposals submitted shall be printed double sided (duplex) and it is recommended that all written documentation submitted to the County be printed on paper containing at least 30% post-consumer recycled content.
4. **Proposal Format and Contents:** For ease of review and to facilitate evaluation, the proposals for this project **must** be organized and presented in the order requested as follows:

- a) **Section I - Organizational Information:**

Firm Description

Provide a description of the firm, number of years in business, and its core competencies.

Provide specific information concerning the firm in this section, including the legal name, address and telephone number of your company and the type of entity (sole proprietorship, partnership, or corporation and whether public or private). Include the name and telephone number of the person(s) in your company authorized to execute the proposed contract. If two or more firms are involved in a joint venture or association, the proposal must clearly delineate the respective areas of authority and responsibility of each party. All parties signing the Agreement with the County must be individually liable for the completion of the entire project even when the areas of responsibility under the terms of the joint venture or association are limited.

Key Personnel

Identify the key personnel and their back-ups that will be assigned to the program.

b) Section II - Qualifications and Experience:

Provide specific information in this section concerning the firm's experience in the services specified in this RFP, within the State of California. Samples of current, completed reports should be submitted (Parties of Interest Report and Excess Proceeds Report). **References are required.** Please provide name, address, telephone number and e-mail of contact persons and number of years providing service from three (3) client agencies other than Napa County for whom similar services have been provided.

Debarment or Other Disqualification

A complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Vendor 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 Vendor'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.

c) Section III - Cost of Service:

The proposal shall be submitted on a cost per parcel basis. Cost per parcel must include all labor, material, equipment, taxes, fees, documentation reproduction,

shipping etc. to perform the Parties of Interest Search (or other report or service) and provide individual parcel reports in both physical and electronic format with the ability to extract names and addresses for mail merge purposes.

The project costs for additional services must be broken out and include all expenses that will be charged to the County, including but not limited to hourly rates for labor, shipping, insurance, communications, documentation reproduction, and all expenses, including travel, meal reimbursement, hotel per diems, taxes, etc. Failure to clearly identify all costs associated with the proposal may be cause for rejection of the proposal.

d) Section IV – Identification of subcontractors:

Proposers shall identify all subcontractors they intend to use for the proposed scope of work. For each subcontractor listed, proposers shall indicate (1) what products and/or services are to be supplied by that subcontractor and, (2) what percentage of the overall scope of work that subcontractor will perform.

e) Section V - Insurance:

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 B, 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.

f) Section VI - Additional Information:

Include any other information you believe to be pertinent but not required.

g) Section VII – Contract Terms:

Proposers must include a statement acknowledging their willingness to accept the sample contract terms (Attachment B) or identify specific exceptions to the sample agreement.

H. Selection Process

1. All complete proposals received pursuant to the terms of the RFP, and by the specified deadline will be reviewed by the County.
2. County employees will not participate in the selection process when those employees have a relationship with a person or business entity submitting a proposal which would subject those employees to the prohibition of California Government Code Section 87100. Any person or business entity submitting a proposal who has such a relationship with a County employee who may be involved in the selection process shall advise the County of the name of the County employee in the proposal.
3. Proposals will be evaluated using the following criteria (note that there is no ranking implied in the order of this list):
 - a) Demonstrated experience and ability to perform the services described (25 pts);
 - b) Qualifications and expertise (15 pts);
 - c) Costs relative to the scope of services (30 pts);
 - d) A demonstrated history of providing similar services to comparable entities (20 pts); and
 - e) Willingness to accept the County's contract terms (10 pts).
4. The County reserves the right, in its sole discretion, to take any of the following actions at any time before approval of an award: waive informalities or minor irregularities in any proposals received, reject any and all proposals, cancel the RFP, or modify and re-issue the RFP. Failure to furnish all information requested or to follow the format requested herein may disqualify the proposer, in the sole discretion of the County. False, incomplete, misleading or unresponsive statements in a proposal may also be sufficient cause for a proposal's rejection.
5. The County may, during the evaluation process, request from any proposer additional information which the County deems necessary to determine the proposer's ability to perform the required services.
6. The County reserves the right to select the proposal which in its sole judgment best meets the needs of the County. ***The lowest proposed cost is not the sole criterion for recommending contract award.***

J. General Information

1. Rules and Regulations

- 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 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.
- b) The issuance of this solicitation does not constitute an award commitment on the part of the County, and the County shall not pay for costs incurred in the preparation or submission of proposals. All costs and expenses associated with the preparation of this proposal shall be borne by the proposer.
- c) Napa County reserves the right to reject any or all proposals or portions thereof if the County determines that it is in the best interest of the County to do so.
- d) The County may waive any deviation in a proposal. The County's waiver of a deviation shall in no way modify the RFP requirements nor excuse the successful proposer from full compliance with any resultant agreement requirements or obligations. Napa County reserves the right to reject any or all proposals, or to waive any defect or irregularity in a proposal. The County further reserves the right to award the agreement to the proposer or proposers that, in the County's judgment, best serves the needs of Napa County.
- e) This solicitation and related information can be found at www.countyofnapa.org/procurement. Napa County does not guarantee the accuracy of information posted on or obtained from third party organizations.
- f) The County reserves the right to incorporate its standard language into any contract resulting from this RFP. The County's contract template is attached for reference only and does not need to be signed or returned with proposal.
- g) 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.
- h) The County reserves the right to contract for a part of the proposal if it is determined it is in the best interest of the County.

- i) 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.
- j) 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.
- k) 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.

2. Non-liability of County

The County shall not be liable for any pre-contractual expenses incurred by the proposer or selected contractor or contractors. The County shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

3. Proposal Alternatives

Proposers may not take exception or make material alterations to any requirement of the RFP. Alternatives to the RFP may be submitted as separate proposals and so noted on the cover of the proposal. The County reserves the right to consider such alternative proposals, and to award an agreement based thereon if it is determined to be in the County's best interest and such proposal satisfies all minimum qualifications specified in the RFP. Please indicate clearly in the proposal that the proposal offers an alternative to the RFP.

4. Lobbying

Any party submitting a proposal or a party representing a proposer shall not influence or attempt to influence any member of the selection committee, any member of the Board of Supervisors, or any employee of Napa County, with regard to the acceptance of

a proposal. Any party attempting to influence the RFP process through ex-parte contact may be subject to rejection of their proposal.

5. Form of Agreement

- a) No agreement with the County shall have any effect until a contract has been signed by both parties. Pursuant to Napa County Code, County personnel are without authorization to waive or modify agreement requirements.
- b) A sample of the agreement is included as Attachment B hereto. Proposers must be willing to provide the required insurance and accept the terms of this sample agreement. With few exceptions, the terms of the County's standard agreement will not be negotiated.
- c) Proposals submitted shall include a statement that (i) the proposer has reviewed the sample agreement and will agree to the terms contained therein if selected, or (ii) all terms and conditions are acceptable to the proposer except as noted specifically in the proposal. A proposer taking exception to the County's sample agreement must also provide alternative language for those provisions considered objectionable to the proposer. Please note that any exceptions or changes requested to the Agreement may constitute grounds to reject the proposal.
- d) Failure to address exceptions to the sample agreement in your proposal will be construed as acceptance of all terms and conditions contained therein.
- e) Submission of additional contract exceptions after the proposal submission deadline may result in rejection of the proposal.

6. Duration of Proposal; Cancellation of Awards; Time of the Essence

- a) All proposals will remain in effect and shall be legally binding for at least one-hundred twenty (120) days.
- b) 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 as evident in submitted proposals. 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.

7. Withdrawal and Submission of Modified Proposal

- a) A proposer may withdraw a proposal at any time prior to the submission deadline by submitting a written notification of withdrawal signed by the proposer or his/her authorized agent. Another proposal may be submitted prior to the deadline. A proposal may not be changed after the designated deadline for submission of proposals.

K. Protest Process

The County's appeals process is as follows:

1. Filing of Protest

Protests may only be filed by a Respondent who is aggrieved in connection with the solicitation or award of a contract issued through a formal sealed solicitation. Such protests must be filed in writing with:

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

2. Deadline to File Protest

Protests must be filed in writing within five (5) working days from the time of the occurrence generating the protest. Protests may be sent via facsimile to (707) 253-4176. Protests received after this time will not be considered. Any protest shall include the following information:

- The date and action taken resulting in a protest, and
- Identification of the material issue, including a detailed explanation of the basis for the protest and the remedy sought.

3. Resolution Process

- a) **Informal Resolution.** Upon receipt of a 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. 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.

4. Appeal to the Board of Supervisors

- a) In the event that 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 the 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/her behalf, and to present oral and written documents and evidence on the issue(s).
- c) After the conclusion of the hearing, the Board of Supervisors shall make findings of fact and a decision concerning the issue(s).

5. 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 relevant County department and County Counsel, makes a written determination that the award of the contract without further delay is necessary to protect a substantial interest of the County.

Attachments:

Attachment A: Project Scope

Attachment B: Sample Professional Services Agreement

Attachment A
PROJECT SCOPE

DESCRIPTION OF SERVICES

The Request for Proposal is to perform a Parties of Interest Search for properties subject to be sold at Napa County auctions of tax-defaulted properties and prepare related reports. The Vendor shall provide all personnel, materials, facilities, equipment, supervision, and other items or services necessary to provide Title Investigation reporting services for all types of properties which shall identify, at a minimum, all Owners of Record, Lien Holders of Record, Bankruptcies, and a Chain of Title. Title search and reporting services shall be required for the following types/categories of properties, but are not limited to:

Tax Defaulted Property Subject to the Power of Sale;
Property on which the County has a lien;

Title Search

A Title Search for each type/category of property must include all relevant documentation recorded against the property and be delivered on paper. Additionally, names and addresses should be provided in an electronic format with the ability to extract for mail merge purposes.

Required reporting: Minimum requirements include the ability to complete and deliver items 1, 2, and 3. Item 4 is considered additional services; inability to provide will not disqualify a Vendor from consideration. If Vendor elects to not bid on Item 4, it should be so noted in the Cost of Service section of RFP response.

1. Parties of Interest Reports for each "Power to Sell" parcel for Property Tax Auctions

In accordance with Revenue and Taxation Code Section 3701, each report shall list the last known address of all lienholders of record and persons with title of record according to the Official Records and the Assessor's public records of Napa County. In addition to the above statutory requirements, the report shall include a review of the property's Notice of Power to Sell for any possible defects; notification the property may be subject to personal contact requirements; notification the property is subject to federal tax lien reporting statutes; notification a bankruptcy petition has been filed or recorded; notification the property may be a street or alleyway or other indication of unsuitability for sale; notification the property may have improvements and there are no liens or encumbrances of records for the subject property; and notification the property is subject to a senior citizen property tax postponement lien of record.

The following elements shall constitute a report:

- Parcel information – the Assessor’s Parcel Number (APN) and property address, if applicable.
- Property Vesting – One hundred percent (100%) current ownership for each property, including:
 - Name(s) and mailing address(es) of the owner(s) of record of the property in question and the recording reference of the vesting document(s).
 - Manner of holding title and any fractional interest the owner may hold (e.g., “as community property” or “as to an undivided one-third interest).
 - Address(es) on previously recorded documents must be legible. For any address that is illegible, the vendor shall prepare, as best as possible, a clean copy of the existing document and provide it with the Report.
 - If oil, gas, or mineral rights are included in the County Assessor’s description of the property to be offered at a tax auction, the Vendor shall include the names and recorded addresses of any holders of these interests, as well as any fractional interest that might be held. If there are no mineral rights included in the Assessor’s description, no search is required.
- Lien Holders of Record – if applicable, a listing of the Lien Holders of Record, including the name and mailing address, recorded date of lien, type of document, date recorded instrument number, loan number, or case number, shall be furnished in order of priority.
Recording references for the lien documents and the dollar amounts.
Name and addresses of entities that have Recorded Default Notices.
- Leased Properties – if applicable, a listing of the names and recorded addresses of lessees, with recording references.
- Judgment and/or other Lien Documents –
 - Names, recorded addresses, and other relevant facts about any person or persons disclosed by the record to have a claim of title to, or possession of, the subject property (junior lien holders, federal and state liens, and notice of action and judgements), with recording references.
 - Names, recorded addresses, date of filing, case number, type, and jurisdiction (i.e., District Court) of any bankruptcies.
 - Identify if property is in a Mello-Roos Community Facilities District or has an Improvement District bond assessment.
 - Property which has a Property Assessed Clean Energy (PACE) lien.
- Assessor’s Map

The Report shall be assembled in the order as follows:

Parties of Interest Report Cover Letter

Grant Deed or deeds that established current ownership which identify/demonstrate 100% ownership

Deeds of Trust, Liens, Probate, Judgments, etc. by recording date, latest to current

The Notice of Power to Sell recording

Assessor's Map

Parties of Interest Reports shall be completed within 30 calendar days from Vendor's receipt of the list of Tax Defaulted Properties. There are currently 84 tax defaulted properties on the list for the Napa County 2018 property tax auction.

2. Post-Sale Date Down Report

Upon conclusion of the tax sale, the TTC may request a Date Down Report for any number of parcels (one to all) that were offered but not sold in an auction and scheduled to be re-offered within 90 days in another auction or to validate a claim that there is a new party of interest. For those properties with any recorded document subsequent to those identified in the previous corresponding Parties of Interest Report, the findings shall be submitted in similar format as the Report, less any documents or information from the corresponding previous Report. For those properties with no additional Parties of Interest, the Vendor shall indicate that those APN's were researched and there were no findings.

Date Down reports shall be completed within seven calendar days from Vendor's receipt of the list of properties unsold at the tax sale.

The Date Down update of each property shall be considered a separate fee from the Report of each property.

3. Excess Proceeds Reports –

Upon conclusion of the tax sale, and in accordance with California Revenue and Taxation Code Section 4676, Vendor shall provide County with Excess Proceeds Services Reports for any parcel sold above minimum bid plus other allowable expenses (excess proceeds). Each report shall list the last known address of all lienholders of record and persons with title of record in the order of their priority for tax sold parcels with excess proceeds. Each report shall also include a completed Notice of Excess Proceeds for each party of interest, provided in County mandated format and deliverable in either printed or electronic format (or both) per County instructions.

The Excess Proceeds Report of each property shall be considered a separate fee from the Parties of Interest Report of each property.

4. Improved Property Contact Services for "Power to Sell" parcels with structures –

Vendor agrees to act on behalf of the County, in a professional manner reflecting the positive image of the County, in an effort to achieve redemptions through personal contacts of the occupants of improved properties; prepare a written report logging each attempt and the details of the site visit; include; electronic photograph(s) of property; and provide documentation evidencing services of written notice executed either through personal delivery or property posting.

Attachment B
Sample Professional Services Agreement

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", acting by and through its Purchasing Agent, 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 perform title searches and prepare tax sale reports on properties subject to be sold at the Napa County Treasurer-Tax Collector's auctions of tax defaulted properties for the purpose of determining the identity of "parties of interest" in order to provide legally required notices of tax sales and the termination of the right to redemption of tax defaulted properties; and

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

WHEREAS, because the aggregate compensation by COUNTY to CONTRACTOR through this and any prior agreements for the same services does not exceed \$65,500 annually and this Agreement does not exceed a total term, including renewals, of three (3) years, COUNTY's Purchasing Agent, or designee, is authorized by Napa County Code section 2.36.040(G) to execute this Agreement on behalf of COUNTY.

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 June 30, 2020, 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).

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 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. **FOR, 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 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 monthly to the Treasurer-Tax Collector 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 Treasurer-Tax Collector 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. [RESERVED]

(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 Treasurer-Tax Collector 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 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) 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, actions, losses, injuries, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees, volunteers, representatives, 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 Ten (10) 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 Five (5) 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 Thirty (30) 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

Tamie R. Frasier, Treasurer-Tax Collector
Napa County Treasurer-Tax Collector's Office
1195 Third St., Suite 108
Napa, CA 94559

[Name]

[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 Treasurer-Tax Collector. 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. Additionally, CONTRACTOR shall only access, use or disclose County Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with County. Any other access, use or disclosure of County Protected Information is prohibited. Examples of prohibited accesses, uses and disclosures include, but are not limited to: the removal of confidential files, documents or devices containing County Protected Information from a County facility; the unauthorized transmission of County Protected Information via email, fax or other means; and the discussion of such information with other individuals (including other CONTRACTOR or

County employees) who do not have a County approved business reason to obtain the information.

(2) CONTRACTOR shall ensure that its staff and any third party organizations or individuals that it engages to perform services in conjunction with the terms of this agreement are trained to its privacy and security policies, as well as Paragraph 15 of this agreement; and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information. 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. This includes instances wherein CONTRACTOR encounters unsecured Protected Information in areas where CONTRACTOR employees are performing services.

(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 Treasurer-Tax Collector.

(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. 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. (RESERVED)

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 Purchasing Agent hereby determines in writing on behalf of COUNTY 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]**

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, acting by and through its Purchasing Agent

By _____
MINH C. TRAN, Interim Napa County Executive
Officer/Purchasing Agent

"COUNTY"

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: _____</p> <p>Date: _____</p>
--

EXHIBIT "A"

SCOPE OF WORK

CONTRACTOR shall provide COUNTY with the following services:

I. DESCRIPTION OF SERVICES

CONTRACTOR shall provide all personnel, materials, facilities, equipment, supervision, and other items or services necessary to provide Title Search reporting services for all types of properties which shall identify, at a minimum, all Owners of Records, Lien Holders of Record, Bankruptcies, and a Chain of Title. Title search and reporting services shall be required for the following types/categories of properties, but are not limited to:

Tax Defaulted Property Subject to the Power of Sale; and,
Property on which the County has a lien.

Required reporting shall include Parties of Interest Reports for each "Power to Sell" parcel for property tax auctions (in accordance with California Revenue and Taxation Code Section 3701); Post-Sale Date Down Reports for parcels that were offered but not sold in an auction and are being re-offered for sale; and Excess Proceeds Reports for any parcel sold above its minimum bid plus other allowable expenses (per California Revenue and Taxation Code Section 4676). Further details of each type of report are attached hereto and incorporated by reference herein.

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

The following schedule of service charges, attached hereto and incorporated by reference herein, includes a Total Annual Service Charges estimate based on average volumes supplied by the county for purposes of preparing the RFP leading to this contract. Annual charges will vary based on actual activity and as services used change throughout the term of the contract; Unit prices will stay consistent throughout the life of the contract.