

**JOINT POWERS AGREEMENT BETWEEN  
NAPA SANITATION DISTRICT and TOWN OF YOUNTVILLE FOR  
WASTEWATER TREATMENT PLANT OPERATION CONTRACT SERVICES**

This Joint Powers Agreement (hereinafter "Agreement") is made and entered into by and between the NAPA SANITATION DISTRICT, a California special district (hereinafter "NapaSan"), and the TOWN OF YOUNTVILLE, a municipal corporation (hereinafter "Yountville") [individually, Napa Sanitation District and Town of Yountville may be identified as "a Party," or collectively, as "the Parties"].

**RECITALS**

- A. NapaSan and Yountville are each a "public agency" as defined by Government Code section 6500.
- B. The Parties are each responsible for wastewater collection and treatment services within their respective boundaries, and as more particularly described in this Agreement.
- C. Yountville is seeking a Grade III Wastewater Treatment Plant Operator for the purpose of compliance with its National Pollutant Discharge Elimination System (NPDES) permit and operational needs. NapaSan staff has the required certification and expertise in the matter and currently has the capacity to assist Yountville with wastewater treatment plant operations including serving as the Chief Plant Operator (CPO) at Yountville's wastewater treatment plant.
- D. Due to their proximity to one another and similar organizational structures, the Parties wish to cooperate to provide for NapaSan staffing of the CPO position in Yountville, in return for Yountville's payment to NapaSan, based on the terms more particularly described in the Scope of Services attached hereto as Exhibit "A".
- E. The Parties desire to enter into this Agreement in accordance with the provisions of the Joint Exercise of Powers Act (Government Code sections 6500, *et seq.*), in particular the immunity protections of Government Code section 6513, and the provisions of Government Code sections 895 through 895.8.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:**

- 1. **SCOPE OF SERVICES.** Yountville hereby delegates to NapaSan the authority to perform, and NapaSan agrees to perform through its Authorized Representative, as requested by Yountville's Authorized Representative, as defined under Section 4 of this Agreement, the services described in Exhibit "A," attached hereto and incorporated herein by reference, in accordance with the terms and conditions contained in this Agreement.
- 2. **ACCESS.** Yountville shall provide NapaSan full access to Yountville's wastewater treatment plant facility. Access shall include all keys and security codes needed to access the facility 24 hours per day, 7 days per week. Access shall also include remote and local access to Yountville's supervisory control and data acquisition (SCADA) system.

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**3. BILLING AND PAYMENT.** In order to request payment for services provided in accordance with this Agreement, NapaSan shall submit monthly invoices to Yountville identifying the services performed and the charges therefor, based upon the payment provisions (set forth on Exhibit "B," attached hereto and incorporated herein by reference). Yountville shall make payment to NapaSan for services performed in accordance with this Agreement within thirty days after receipt of invoice. If Yountville disputes any portion of the request for payment from NapaSan, Yountville shall provide written notice of the dispute to NapaSan within thirty days after receipt of invoice, however the undisputed portion of the invoice shall be paid within thirty days of receipt of the invoice.

**4. AUTHORIZED REPRESENTATIVES.**

**4(A). NapaSan's Authorized Representative.** All services performed by NapaSan under this Agreement shall be performed by, or under the supervision of, NapaSan's Authorized Representative, the Operations Director, unless otherwise designated in writing by NapaSan's Authorized Representative or the General Manager of NapaSan. The Authorized Representative may delegate the performance of certain services to the NapaSan's District Engineer.

**4(B). Yountville's Authorized Representative.** All services performed by Yountville shall be performed by, or under the supervision of, the Public Works Director, unless otherwise designated in writing by Yountville's authorized representative or the Town Manager of the Town of Yountville.

**5. INFORMATION AND DOCUMENTATION.**

**5(A). Accounting Records.** NapaSan and Yountville shall maintain all accounting records related to this Agreement in accordance with generally accepted accounting principles and state law requirements, and in no event for less than four years. The accounting records to be maintained in accordance with this Agreement shall include, at a minimum, documents which support NapaSan and Yountville's costs and expenses related to this Agreement, including documentation of requests for services, services performed, invoices, and payments. Each party's accounting records shall be made available to the other party within a reasonable time after request, during normal business hours.

**5(B). Ownership of Work Product.** All original documents prepared by either Party in performing under this Agreement (including its employees and agents) for this Agreement ("work product"), whether complete or in progress, shall become the property of that Party, and shall be given to the other Party at the completion of services, or upon demand by the other Party. Each Party shall have a right to make and keep copies of the work product.

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**6. RELATIONSHIP BETWEEN THE PARTIES.** NapaSan and Yountville are each an independent “public agency,” as defined by Government Code section 6500, and this Agreement does not create a separate legal entity. Each party shall, at all times, remain an independent public agency solely responsible for all acts of its employees or agents, including any negligent acts or omissions.

**6(A).** NapaSan (including its employees and agents) is not Yountville’s agent, and shall have no authority to act on behalf of Yountville, or to bind Yountville to any obligation whatsoever, unless Yountville provides prior written authorization to NapaSan. NapaSan is not an officer or employee of Yountville, and NapaSan shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement.

**6(B).** Yountville (including its employees and agents) is not NapaSan’s agent, and shall have no authority to act on behalf of NapaSan, or to bind NapaSan to any obligation whatsoever, unless NapaSan provides prior written authorization to Yountville. Yountville is not an officer or employee of NapaSan, and Yountville shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement.

**6(C).** The Parties agree that, in performing the work and services described herein, NapaSan is, and shall be, acting at all times as an independent contractor, and all employees of NapaSan are solely employees of NapaSan and not the agents or employees of Yountville. NapaSan shall pay all salaries and wages, employer’s social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

**7. LIABILITY FOR PERMIT VIOLATIONS.** Notwithstanding any other provision herein, in no event shall NapaSan be liable for any regulatory violation, fine, or lawsuit alleged or filed against Yountville by any regulatory authority, non-governmental organization, or other third-party, including those related to Yountville’s NPDES permit, unless such violation or fine arises out of NapaSan’s gross negligence or willful misconduct.

**8. COMPLIANCE WITH LAW.** Each party shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances and resolutions), whether or not said laws are expressly stated in this Agreement.

**9. PERFORMANCE STANDARD.** NapaSan provide the work and services described herein in a manner consistent with all applicable standards and regulations governing such services.

**10. INSURANCE AND BONDS.**

**10(A).** Each party shall, throughout the duration of this Agreement, maintain insurance (including, for the purpose of this section, self-insurance or coverage under a self-insurance pool) to cover each of their respective interests related to work performed under this Agreement (including coverage for their employees and agents). Concurrently with the execution of this Agreement, and prior to the commencement of any services, each party

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shall provide the other with written proof of insurance (including self-insurance or self-insurance pool coverage) (certificates and endorsements), in a form acceptable to the other party. Each party shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance coverage required by this Agreement.

**10(A)(1). Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage in an amount not less than \$1,000,000 general occurrence for general liability, bodily injury, personal injury and property damage. Each party shall name the other as an additional covered party or additional insured.

**10(A)(2). Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") coverage in an amount not less than \$1,000,000 per accident for bodily injury and property damage.

**10(A)(3).** Workers' Compensation coverage as required by the State of California.

**11. PRIVILEGES, IMMUNITIES AND OTHER BENEFITS.** In accordance with California Government Code section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of the trustees, officers, employees or agents of the Parties when performing their functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties associated with performance of this Agreement.

**12. INDEMNIFICATION.** Except as provided in Section 7, NapaSan and Yountville shall defend, indemnify and hold harmless each other as well as their respective officers, agents and employees from any claim, suit, loss or liability including without limitation, those for personal injury (including death) or damage to property, arising out of any acts or omissions of that party or its officers, agents or employees when performing any activities or obligations required of that party under this Agreement. NapaSan and Yountville shall cooperate with one another in the defense of any action required by this section. All indemnity agreements provided for in this Agreement shall survive the termination of the Agreement, for the period of time allowed by the applicable statute of limitation during which the claim creating the indemnity obligation may be filed with a court of competent jurisdiction.

**13. TERM OF THE AGREEMENT.** The term of this Agreement shall commence on the date last signed by the parties, below, and shall continue for a period of one (1) year. This Agreement shall automatically renew on an annual basis after the initial one (1) year term. This Agreement may be terminated by either party without cause upon thirty (30) days written notice to the other party. If either party exercises its right to terminate this Agreement in accordance with this paragraph, Yountville shall pay NapaSan for all services performed in accordance with this Agreement, through and including the date of termination, but not to exceed the payments according to the rates specified in Exhibit "B."

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**14. DEFAULT.** If either party (“demanding party”) has a good faith belief that the other party (“defaulting party”) is not complying with the terms of this Agreement, the demanding party shall give written notice of the default (with reasonable specificity) to the defaulting party, and demand the default to be cured within ten days of the notice. If: (a) the defaulting party fails to cure the default within ten days of the notice, or, (b) if more than ten days are reasonably required to cure the default and the defaulting party fails to give adequate written assurance of due performance within ten days of the notice, then (c) the demanding party may terminate this Agreement upon written notice to the defaulting party.

**15. NOTICES.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party’s Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party.

**To NapaSan:**

Napa Sanitation District  
Attn: Jim Keller, Operations Director  
1515 Soscol Ferry Road  
Napa, CA 94558

Telephone: (707) 258-6000

**To Yountville:**

Town of Yountville  
Attn: John Ferons, Public Works Director  
6550 Yount Street  
Yountville, CA 94599

Telephone: (707) 944-8851

**16. HEADINGS.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

**17. SEVERABILITY.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties’ intent under this Agreement.

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- 18. GOVERNING LAW, JURISDICTION, AND VENUE.** The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Napa.
- 19. ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
- 20. ASSIGNMENT AND DELEGATION.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of either party's duties be delegated, without the written consent of the other party. Any attempt to assign or delegate this Agreement without the written consent of the other party shall be void and of no force or effect. A consent to one assignment shall not be deemed to be a consent to any subsequent assignment.
- 21. MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
- 22. WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
- 23. ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the services described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.
- 24. EACH PARTY'S ROLE IN DRAFTING THE AGREEMENT.** Each party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither party shall rely upon Civil Code section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

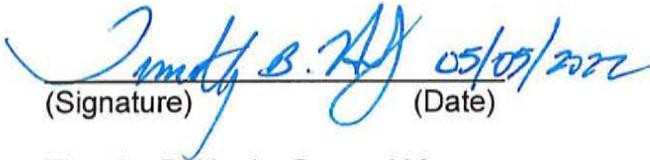
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**25. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of NapaSan and Yountville. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**NAPA SANITATION DISTRICT:**

**TOWN OF YOUNTVILLE:**

  
(Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

\_\_\_\_\_  
(Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

Timothy B. Healy, General Manager

Steven Rogers, Town Manager

**APPROVED AS TO FORM:**

  
(Signature) \_\_\_\_\_

\_\_\_\_\_  
(Signature) \_\_\_\_\_

John Bakker, Legal Counsel

\_\_\_\_\_  
Name Title

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**EXHIBIT "A"**

**SCOPE OF WORK**

**AND**

**SCHEDULE OF PERFORMANCE**

**Wastewater treatment plant operation services provided to Yountville from NapaSan:**

Provide ministerial and non-discretionary services as Chief Plant Operator (CPO) as a Grade III Wastewater Treatment Plant Operator (or higher certification) for the Town of Yountville.

The CPO is responsible for the overall operation of the wastewater treatment plant including compliance with effluent limitations established in Yountville's NPDES Permit CA0038121 Order R202020-0026 regardless of the organizational hierarchy and ensuring operators-in-training (OITs) are supervised directly in accordance with the WWTP Operator Certification Regulations.

These duties shall include supervision of the proper operation and maintenance of facilities and of treatment and control at the WWTP, conducting inspections and documenting conditions where there may be potential violations of the NPDES permit, advising Town of Yountville of these conditions and recommended actions, reviewing the regulatory reports prior to submittal.

Work hours are estimated to be 15 hours per week by a Grade III Treatment Plant Operator.

This agreement is specific to Yountville wastewater treatment plant operation and shall not include NapaSan providing any scope of services for Yountville's sanitary sewer collection system, recycled water distribution, regulatory reporting, lab testing, engineering and/or facilities maintenance. NapaSan CPO will not serve as Yountville's on-call (off hours) operator.

Additional work, not included in the scope of this agreement may be authorized using the form in Exhibit "C".

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**EXHIBIT "B"**

**COMPENSATION RATES AND CHARGES**

**NapaSan**

**Grade III Wastewater Treatment Plant Operator = \$88.59 hourly by 1/10 hour increments for regular hours. Hours worked outside of shift will be at the overtime rate of \$115.30.**

**Operations Director = \$124.58 hourly by 1/10 hour increments**

Charges for vehicles and heavy equipment shall be based upon an average hourly use rate established for various classes of vehicles as determined by NapaSan.

Rates are as of July 1, 2021 and are subject to change based on actual cost of staff. Rates are scheduled to increase on July 1, 2022.

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**EXHIBIT "C"**

**ADDITIONAL WORK AUTHORIZATION**

The Town of Yountville requests additional work and services, outside the scope of work listed in Exhibit "A" in the agreement between the Town of Yountville and Napa Sanitation District for Wastewater Treatment Plant Operation Contract Services.

This form shall be approved and signed by the Town of Yountville Public Works Director prior to commencing additional work.

Additional work description:

Estimate of hours (including staff and vehicles:

Estimate of costs (including materials):

**TOWN OF YOUNTVILLE:**

\_\_\_\_\_  
(Signature)

John Ferons, Public Works Director

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