



NAPA VALLEY TRANSPORTATION AUTHORITY COVER MEMO

SUBJECT

Napa Valley Transportation Authority (NVTA) Agreement No. 25-C04 with Stradling, Yocca, Carlson & Rauch (“Stradling”) for Bond Counsel, Disclosure Counsel and Tax Attorney Advisory Services

STAFF RECOMMENDATION

That the Napa Valley Transportation Authority authorize the Executive Director, or designee to execute and make minor changes to Agreement No. 25-C04 with Stradling (Attachment 1) for bond, disclosure, and tax advisory legal services for a period of up to six years in an amount not to exceed \$300,000, for actual services rendered.

EXECUTIVE SUMMARY

NVTA released a Request for Proposals (RFP) 25-R19 on January 2, 2025, to provide professional bond counsel, disclosure counsel and tax attorney advisory services for the NVTA and NVTA-TA. Four proposals were received, and based on the merits of the proposal, the Evaluation Committee concluded Stradling met the requirements outlined in the RFP.

FISCAL IMPACT

Is there a Fiscal Impact? Yes. The estimated cost of services is up to \$300,000 over the six-year contract period. Funding these services will be provided through Measure U administration funds.

Bond Counsel’s fees are typically on a “per financing” basis and are contingent upon the successful issuance of financing obligations. If there isn’t any financings, there is no need for bond and disclosure counsel and the agency will not be charged for services. Tax advisory and other legal services will be charged on a per hour basis depending on the scope of work requested.



NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: NVRTA Board of Directors

FROM: Kate Miller, Executive Director

REPORT BY: Antonio Onorato, Director - Administration, Finance and Policy
(707) 259-8779 / Email: aonorato@nvta.ca.gov

SUBJECT: Napa Valley Transportation Authority (NVRTA) Agreement No. 25-C04 with Stradling, Yocca, Carlson & Rauch LLP ("Stradling") for Bond Counsel, Disclosure Counsel, and Tax Attorney Advisory Services

RECOMMENDATION

That the Napa Valley Transportation Authority authorize the Executive Director, or designee to execute and make minor changes to Agreement No. 25-C04 with Stradling (Attachment 1) for bond, disclosure, and tax advisory legal services for a period of up to six years in an amount not to exceed \$300,000, for actual services rendered.

COMMITTEE RECOMMENDATION

None

BACKGROUND

To ensure continued legal expertise, and especially considering Measure U bonding potential, NVRTA issued a competitive solicitation for bond counsel and disclosure counsel services on January 2, 2025. NVRTA seeks to engage a firm capable of supporting the agency's objective for issuing debt, which requires contracting for these services, to ensure the efficient, effective, and successful delivery of the Measure U capital program.

The bond counsel is an essential member of a government issuer's bond financing team. The legal firm not only prepares authorizing documents, disclosure documents and assists in compliance with IRS regulations, but also renders an opinion on the validity of the bond offering, the security for the offering, and whether and to what extent interest on the bonds is exempt from income and other taxation. The opinion of bond counsel provides assurance both to issuers and to investors who purchase the bonds that all legal and tax requirements relevant to the matters covered by the opinion are met.

The solicitation was advertised on NVTa's website, the Napa Valley Register, and publicpurchase.com, and direct emails to known firms

A pool of qualified firms was created composed of the following four firms:

- Best, Best, and Kreiger LLP (BBK)
- Hawkins Delafield & Wood LLP (Hawkins)
- Nixon Peabody LLP (Nixon Peabody)
- Stradling, Yocca, Carlson & Rauch LLP (Stradling)

The RFP provided that an Evaluation Committee assess the technical proposals. The committee included the Executive Director, Deputy Executive Director, Director of Finance, and Senior Accountant. The Evaluation Committee scored the firms based on the following criteria. Table 1 provides the results of the scoring and ranking of the firms.

- Understanding of Work to be Done; 40 points
- Firm, Entity/Individual Background, and Experience with similar Public Entities; 25 points
- Qualifications of Proposer and Project Staffing; 25 points
- Cost Rates – Value; 10 points

Table 1: Scores and Ranking

Firm	Score	Rank
Stradling	357	1
Hawkins	355	2
Nixon Peabody	331	3
BBK	284	4

The top two scorers- Hawkins and Stradling were invited for a one-hour interview. Based upon the Evaluation Committee's assessment of the interviews, Stradling was confirmed as the top firm to serve as the bond counsel, disclosure counsel, and tax attorney services.

ATTACHMENT(S)

(1) Draft NVTa Agreement No. 25-C04 with Stradling

NAPA VALLEY TRANSPORTATION AUTHORITY (NVTA)**AGREEMENT NO. 25-C04**

THIS AGREEMENT is made and entered into as of this _____ day of **May, 2025**, by and between the Napa Valley Transportation Authority, a joint powers agency under the laws of the State of California, hereinafter referred to as "NVTA", and Stradling Yocca Carlson & Rauth LLP whose mailing address is 660 Newport Center Drive, Suite 1600, Newport Beach, CA 92660 hereinafter referred to as "CONSULTANT";

RECITALS

WHEREAS, NVTA wishes to obtain specialized services in order to provide bond, disclosure and tax counsel services as requested by NVTA and NVTA-TA; and

WHEREAS, NVTA has authorized the NVTA Executive Director or designee to enter into a contract for services at its May 21, 2025, meeting; and

WHEREAS, CONSULTANT is willing and has been determined to be qualified to provide such specialized services to NVTA under the terms and conditions set forth herein;

TERMS

NOW, THEREFORE, NVTA hereby engages the services of CONSULTANT, and CONSULTANT agrees to serve NVTA 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 ("Effective Date") and shall expire six (6) years from the effective date unless earlier terminated as provided herein, except that the obligations of the parties under "Insurance" and "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 CONSULTANT to NVTA shall also continue after said expiration date or early termination in relation to the obligations prescribed by "Confidentiality," "Taxes," and "Access to Records/Retention)".
2. **Scope of Services.** CONSULTANT shall provide NVTA those services set forth in CONSULTANT's proposal (EXHIBIT A), attached hereto and incorporated by reference herein. EXHIBIT A is provided solely to describe the services to be provided. Any terms contained in EXHIBIT A that add to, vary, or conflict with the terms of this Agreement are null and void.

3. **Compensation.**

(a) Rates. In consideration of CONSULTANT's fulfillment of the promised work, NVTA shall pay CONSULTANT at the rate set forth in EXHIBIT B, attached hereto and incorporated by reference herein.

(b) Expenses. Unless explicitly agreed in writing, no direct expenses, including travel or other expenses, will be reimbursed by NVTA.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of \$300,000 for professional services and expenses; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered.

4. **Method of Payment.**

(a) Invoices. All payments for compensation shall be made only upon presentation by CONSULTANT to NVTA of an itemized billing invoice in a form acceptable to the NVTA Director Administration, Finance and Policy which indicates, at a minimum, CONSULTANT's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked or, where compensation is on a per-task basis, a description of the tasks completed during the billing period, the person(s) actually performing the services and the position(s) held by such person(s), and the approved hourly or task rate. CONSULTANT shall submit invoices not more often than every 30 days to NVTA Accounts Payable at 625 Burnell Street, Napa, CA 94559 or electronically to ap@nvta.ca.gov, who after review and approval as to form and content, shall submit the invoice to the NVTA Director Administration, Finance and Policy no later than fifteen (15) calendar days following receipt.

(b) Legal status. So that NVTA may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONSULTANT 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 maintained on file with the Secretary of NVTA's Board of Directors at all times during the term of this Agreement in a form satisfactory to the NVTA Director Administration, Finance and Policy. 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 CONSULTANT within the State of California.

5. **Independent Consultant.** CONSULTANT shall perform this Agreement as an independent CONSULTANT. CONSULTANT and the officers, agents and employees of CONSULTANT are not, and shall not be deemed, NVTA employees for any purpose, including workers' compensation and employee benefits. CONSULTANT shall, at CONSULTANT's own risk and expense, determine the method and manner by which duties imposed on CONSULTANT by this Agreement shall be performed; provided, however, that NVTA may monitor the work performed by CONSULTANT. NVTA shall

not deduct or withhold any amounts whatsoever from the compensation paid to CONSULTANT, including, but not limited to amounts required to be withheld for state and federal taxes. As between the parties to this Agreement, CONSULTANT shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONSULTANT, including the agents or employees of CONSULTANT, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONSULTANT 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, NVTA, in addition to any other rights or remedies which NVTA may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONSULTANT.

7. **Insurance.** CONSULTANT 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. CONSULTANT will provide workers' compensation insurance as required by law during the term of this Agreement, CONSULTANT shall provide workers' compensation insurance for the performance of any of the CONSULTANT'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 NVTA with certification of all such coverages upon request by NVTA's Risk Manager.

(b) Liability insurance. CONSULTANT shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverage's, issued by a company licensed (admitted) to transact business in the State of California and/or having a A.M. Best rating of A VII or better:

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 CONSULTANT or any officer, agent, or employee of CONSULTANT under this Agreement.

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

3. Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired,

leased and non-owned vehicles used in conjunction with CONSULTANT's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence.

(c) Certificates. All insurance coverage's referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of NVTA's Risk Manager, demonstrated by other evidence of coverage acceptable to NVTA's Risk Manager, which shall be filed by CONSULTANT with NVTA's Deputy Executive Director prior to commencement of performance of any of CONSULTANT's duties; shall be kept current during the term of this Agreement; shall provide that NVTA shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability. For the commercial general liability insurance coverage referenced in 7(b)(1) and, where the vehicles are covered by a commercial policy rather than a personal policy, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) CONSULTANT shall also file with the evidence of coverage an endorsement from the insurance provider naming NVTA, its officers, employees, agents and volunteers as additional insureds and waiving subrogation, and the certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONSULTANT not covered by this Agreement then the limits in the applicable certificate relating to the additional insured coverage of NVTA shall pertain only to liability for activities of CONSULTANT under this Agreement, and that the insurance provided is primary coverage to NVTA with respect to any insurance or self-insurance programs maintained by NVTA. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Upon request by NVTA's Risk Manager, CONSULTANT 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, NVTA's Risk Manager, which approval shall not be denied unless the NVTA'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 CONSULTANT by this Agreement. At the option of and upon request by NVTA's Risk Manager if it is determined that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects NVTA, its officers, employees, agents and volunteers or CONSULTANT shall

procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

8. **Hold Harmless/Defense/Indemnification.** To the fullest extent permitted by law, CONSULTANT shall hold harmless, defend at its own expense, and indemnify NVTa and the officers, agents, employees and volunteers of NVTa from and against any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising from, pertaining to, or relating to the negligence, recklessness, or willful misconduct of CONSULTANT or its officers, agents, employees, volunteers, consultants and subconsultants in rendering services under this Agreement, excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of NVTa or its officers, agents, employees, volunteers, or other consultants or their subconsultants. 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.

9. **Employee Character and Fitness.** CONSULTANT accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents, or representatives) to provide the services required of CONSULTANT 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, CONSULTANT, shall hold NVTa and its officers, agents, and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONSULTANT's actions in this regard.

10. **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 20 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 10 days written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). NVTa hereby authorizes the NVTa Executive Director to make all decisions and take all actions required under this Paragraph to terminate the Agreement on behalf of NVTa for cause.

11. **Termination for Convenience.** This Agreement may be terminated by NVTa for any reason and at any time by giving no less than 30 days written notice of such termination and specifying the effective date thereof. NVTa hereby authorizes the NVTa Executive Director to make all decisions and take all actions required under this Paragraph to terminate the Agreement on behalf of NVTa.

12. **Disposition of, Title to and Payment for Work upon Expiration or Termination.**

(a) Upon expiration of this Agreement or earlier termination of Agreement, all finished or unfinished documents and other materials, if any, and all rights therein shall

become, at the option of NVTa, the property of and shall be promptly returned to NVTa, although CONSULTANT may retain a copy of such work for its personal records only. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONSULTANT under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only NVTa shall be entitled to claim or apply for the copyright or patent thereof.

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

13. **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.

14. **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.

NVTa

Kate Miller
Executive Director
625 Burnell Street
Napa, CA. 94559

CONSULTANT

Brian P. Forbath
President/Partner
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660

15. **Compliance with NVTa Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONSULTANT hereby agrees to comply, and require its employees and subconsultants to comply, with the following policies, copies of which are on file with the Board Secretary of NVTa and incorporated by reference herein. CONSULTANT 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 NVTa employees or consultants.

(a) NVTA Policy for Maintaining a Harassment Free Work Environment effective November 18, 2015.

(b) NVTA Drug and Alcohol Policy adopted by resolution of the Board of Directors on November 18, 2015.

(c) Napa County Information Technology Use and Security Policy adopted by resolution of the Napa County Board of Supervisors on April 4, 2005. To this end, all employees and subconsultant's of CONSULTANT whose performance of services under this Agreement requires access to any portion of the NVTA computer network shall sign and have on file with NVTA prior to receiving such access the certification attached to said Policy.

(d) NVTA System Safety Program Plan adopted by resolution of the Board of Directors on November 18, 2015.

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

17. **No Assignments or Subcontracts.**

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

(b) Effect of Change in Status. If CONSULTANT 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 CONSULTANT. Failure of CONSULTANT to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

18. **Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in writing signed by both Parties. Only NVTa, through its Board of Directors in the form of an amendment of this Agreement, may authorize extra and/or changed work beyond the scope of services prescribed by EXHIBIT A. Failure of CONSULTANT to secure such authorization in writing in advance of performing any of the extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work.

19. **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.

20. **Compliance with Laws.** CONSULTANT shall observe and comply with all currently applicable Federal, State and local laws, ordinances, and codes, including but not limited to the Federal laws contained in Attachment 1, and as amended from time to time. 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, CONSULTANT and its subconsultant's shall not deny the benefits thereof to any person on the basis of sex, race, color, ancestry, religion or religious creed, national origin or ethnic group identification, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), nor shall they discriminate unlawfully against any employee or applicant for employment because of sex, race, color, ancestry, religion or religious creed, national origin or ethnic group identification, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), or use of family care leave. CONSULTANT 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, CONSULTANT shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated there under (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 CONSULTANT services or works required of NVTA by the State of California pursuant to Agreement between NVTA 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 CONSULTANT and any of its subconsultant's shall give written notice of their obligations there under to labor organizations with which they have collective bargaining or other agreements.

(b) Documentation of Right to Work. CONSULTANT agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONSULTANT 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. CONSULTANT shall make the required documentation available upon request to NVTA for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONSULTANT under this Agreement are subcontracted to a third party; CONSULTANT shall include all of the provisions of this Section, and any applicable Federal provisions contained in Attachment 1 in all such subcontracts as obligations of the subconsultant.

21. **Taxes.** CONSULTANT 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. CONSULTANT agrees to indemnify and hold NVTA harmless from any liability it may incur to the United States or the State of California because of CONSULTANT's failure to pay or withhold, when due, all such taxes and obligations. In the event that NVTA is audited for compliance regarding any withholding or other applicable taxes or amounts, CONSULTANT agrees to furnish NVTA with proof of payment of taxes or withholdings on those earnings.

22. **Access to Records/Retention.** NVTA, 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 CONSULTANT 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, CONSULTANT shall maintain all required records for at least seven (7) years after NVTA makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

23. **Authority to Contract.** CONSULTANT and NVTA each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

24. **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. CONSULTANT hereby covenants that it presently has no interest not disclosed to NVTA 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 NVTA may consent to in writing prior to the acquisition by CONSULTANT of such conflict. CONSULTANT further warrants that it is unaware of any financial or economic interest of any public officer or employee of NVTA relating to this Agreement. CONSULTANT agrees that if such financial interest does exist at the inception of this Agreement, NVTA may terminate this Agreement immediately upon giving written notice without further obligation by NVTA to CONSULTANT under this Agreement.

(b) Statements of Economic Interest. CONSULTANT acknowledges and understands that NVTA has developed and approved a Conflict of Interest Code as required by state law which requires CONSULTANT 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 the NVTA Executive Director has determined in writing that CONSULTANT, 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. CONSULTANT agrees to timely comply with all filing obligations for a consultant under NVTA's Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

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

26. **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.

27. **Attorney's Fees.** If either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof,

the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

28. **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.

29. **Entirety of Contract.** This Agreement constitutes the entire agreement between the parties regarding 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.

30. **Extensions Authorized.** The Executive Director is delegated authority to execute amendments to extend the term of this Agreement, if needed from time to time.

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

“NVTA”

“CONSULTANT”

STRADLING YOCCA CARLSON &
RAUTH LLP

By _____
KATE MILLER, Executive Director

By _____
BRIAN P. FORBATH, President/Partner

ATTEST:

By _____
LAURA SANDERLIN, Board Secretary

By _____
NAME, Title, Signature

Approved as to Form:

By _____
NVTA General Counsel

ATTACHMENT E-1

Local Agency Proposer DBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

CONTRACT GOAL: \$ _____

PROPOSAL DATE: _____

PROPOSER'S NAME: _____

[illegible]

For Local Agency to Complete:

Local Agency Contract Number: _____

Federal Aid Project Number: _____

Federal Share: _____

Proposal Award Date: _____

Local Agency certifies that the UDBE certification(s) has been verified and all information is complete and accurate.

Print Name	Signature	Date
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Local Agency Representative

(Area Code) Telephone Number:

For Caltrans Review:

Print Name	Signature	Date
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Caltrans District Local Assistance Engineer

Total Claimed
Participation

\$

%

Signature of Proposer

Date _____

(Area Code) Tel. No.

Local Agency Bidder - UDBE Commitment (Rev 3/09)

EXHIBIT A

SCOPE OF WORK

BACKGROUND

The NVTA-TA was originally formed to manage the funds generated by twenty-five-year half-cent transportation sales tax Napa County voters enacted in 2012 known as Measure T. In November of 2024, the sales tax was renewed by voters for an additional 12 years (to 2055) and a new transportation expenditure plan was adopted. Revenues under “New” Measure U begins on July 1, 2025, after revenue collection under the original Measure T ends on June 30, 2025.

SCOPE OF WORK & PROJECT DELIVERABLES

Consultant will provide Bond, Disclosure and Tax Counsel services as requested which may include, but are not limited to assisting the NVTA and the NVTA-TA to:

Measure and Borrowing Planning Legal Services

In drafting the proposed new sales tax measure and evaluating borrowing alternatives under the new measure, NVTA seeks to ensure that all provisions of law and best practices are met.

1. Provide NVTA staff, NVTA legal counsel, and NVTA’s Municipal Advisor guidance on borrowing authority and requirements.
2. Consult and work with NVTA staff, NVTA legal counsel, NVTA’s Municipal Advisor, and other NVTA consultants, to assist in the formulation of the legal structure.
3. Advise on any perceived legal issues or challenges, including tax, borrowing authority, and state and federal law.
4. Advise specifically on IRS requirements for a tax-exempt borrowing by reviewing a proposed project list and determining project eligibility for tax-exempt financing in addition to advising on spend-down requirements.
5. Participate and assist in drafting the description of security structure.

Bond Counsel Services

Serve as NVTA’s legal counsel in connection with a borrowing to finance projects under the new measure. The selected firm will be required to perform the following upon request of NVTA, as appropriate:

1. Prepare all legal documents for the authorization, issuance, and sale of the bonds, including closing documents and transcripts.
2. Provide an objective legal opinion with respect to the valid authorization and issuance of the obligations and whether the interest paid is tax-exempt under federal and/or state

laws and regulations (and other opinions customary for a transaction of this nature).

3. Provide continuing advice regarding any necessary actions required of NVTA to ensure that interest will continue to be tax-exempt.
4. Provide any and all legal consultations requested by NVTA concerning the proposed offering at any time after their delivery.
5. Attend working group and due diligence meeting/conference calls as necessary, or when specifically requested by NVTA to attend. As requested, attend Board of Directors meetings.
6. Participate, when requested, in activities associated with rating agency meeting/calls.

Tax Counsel Services

Tax Counsel will be expected to prepare tax regulatory agreements for the debt issues and advise the Tax Agency in complying with state and federal laws relating to tax-exempt financing. Tax Counsel will be expected to consult with and lead other Counsel on the analysis of tax matters for both new money and refunding bond issues. Tax Counsel will respond and consult with the State and Federal regulatory agencies on tax issues and current developments on the use of proceeds, private activity, arbitrage, and other matters related to the federal tax exemption. Tax Counsel will provide full tax analysis and opinions on NVTA-TA debt issues.

Optional Line Item: Disclosure Counsel Services for Debt Issuance

NVTA may have a need for Disclosure Counsel services in the future and is therefore adding this service as an option line item that will be evaluated at the time of award. NVTA reserves the unilateral right to modify the contract and add this service at the amount proposed unless NVTA determines it is in the best interest of NVTA to award a separate contract for these services.

The selected firm will be required to perform the following upon request of NVTA, as appropriate:

1. Consult and work with NVTA staff, NVTA Counsel, Municipal Advisor, Underwriter(s) and other consultants, to assist in the formulation of debt issuance disclosure.
2. Provide NVTA staff and the NVTA Board of Directors guidance on issuer obligations and requirements, as requested.
3. Prepare the Preliminary Official Statement and Final Official Statement, the continuing disclosure certificate, and other disclosure documents such as continuing disclosure in connection with a public offering.
4. Confer and consult with staff on all matters relating to the Preliminary Official Statement and Final Official Statement.
5. Attend working group and due diligence meeting/conference calls as necessary, or when specifically requested by NVTA to attend. As requested, attend NVTA Board of Directors meetings.
6. Review and comment on any investor presentation prepared by the NVTA and the underwriter, as needed.

7. Render a disclosure opinion to NVTa and to the underwriter.
8. Provide any and all disclosure consultations requested by the NVTa concerning the public offering at any time after their delivery.
9. Provide advice regarding ongoing continuing disclosure and NVTa's obligations.

II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550. As required by Government Code section 7550, each document or report prepared by CONSULTANT for or under the direction of NVTa 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 report