

**CITY OF SANTA ROSA
PROFESSIONAL SERVICES AGREEMENT
WITH HINDERLITER DE LLAMAS AND ASSOCIATES
AGREEMENT NUMBER _F003099_**

This "Agreement" is made as of this ____ day of _____, 2025, by and between the City of Santa Rosa, a municipal corporation ("City"), and Hinderliter de Llamas and Associates a California Corporation ("Contractor").

R E C I T A L S

- A. City desires to engage a consulting firm to manage the analysis and support of multiple revenue sources.
- B. City desires to retain a responsible and qualified firm to conduct the services described above in accordance with the Scope of Services as more particularly set forth in Exhibit A to this Agreement.
- C. Contractor represents to City that it is a responsible firm composed of highly trained professionals with the ability and skills necessary to successfully perform the services hereunder under the terms and conditions of this Agreement.
- D. The parties have negotiated upon the terms pursuant to which Contractor will provide such services and have reduced such terms to writing.

AGREEMENT

NOW, THEREFORE, City and Contractor agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide to City the services described in Exhibit A ("Scope of Services") Contractor shall provide these services at the time, place, and in the manner specified in Exhibit A. Exhibit A is attached hereto for the purpose of defining the manner and scope of services to be provided by Contractor and is not intended to, and shall not be construed so as to, modify or expand the terms, conditions or provisions contained in this Agreement. In the event of any conflict between this Agreement and any terms or conditions of any document prepared or provided by Contractor and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the terms of this Agreement shall control and prevail.

2. COMPENSATION

a. City shall pay Contractor for services rendered pursuant to this Agreement at the rates, times and in the manner set forth in Exhibit A. Contractor shall submit monthly statements to City which shall itemize the services performed as of the date of the statement and set forth a progress report, including work accomplished during the period, percent of each task completed, and planned effort for the next period. Invoices shall identify personnel who have worked on the services provided, the number of hours each worked during the period covered by the invoice, the hourly rate for each person, and the percent of the total project completed, consistent with the rates and amounts shown in Exhibit A.

b. The payments prescribed herein shall constitute all compensation to Contractor for all costs of services, including, but not limited to, direct costs of labor of employees engaged by Contractor, travel expenses, telephone charges, copying and reproduction, computer time, and any and all other costs, expenses and charges of Contractor, its agents and employees. In no event shall City be obligated to pay late fees or interest, whether or not such requirements are contained in Contractor's invoice.

c. Notwithstanding any other provision in this Agreement to the contrary, the total maximum compensation to be paid for the satisfactory accomplishment and completion of all services to be performed hereunder as specified in Exhibit A.

3. DOCUMENTATION; RETENTION OF MATERIALS; ACCESS TO RECORDS

a. Contractor shall maintain adequate documentation to substantiate all charges as required under Section 2 of this Agreement.

b. Contractor shall keep and maintain full and complete documentation and accounting records concerning all extra or special services performed by it that are compensable by other than an hourly or flat rate.

c. Contractor shall maintain the records and any and all other records pertinent to this Agreement for a period of four (4) years after completion of all services hereunder.

d. Contractor agrees to provide City, the State of California, the Federal Emergency Management Agency ("FEMA") Administrator, the Comptroller General of the United States, and any or all of their authorized representatives, access to any books, documents, papers, and records of Contractor which are pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

e. Contractor agrees to permit all or any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

f. Contractor agrees to provide the FEMA Administrator or his authorized representatives access to work sites pertaining to the services being performed under this Agreement.

4. INDEMNITY

a. Contractor shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless City, and its employees, officials and agents ("Indemnified Parties") from all claims, demands, costs or liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, interest, defense costs, and expert witness fees), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, its officers, employees, or agents, in said performance of professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.

b. The existence or acceptance by City of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of City's rights under this Section 4, nor shall the limits of such insurance limit the liability of Contractor hereunder. This Section 4 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section

18(b), below. The provisions of this Section 4 shall survive any expiration or termination of this Agreement.

c. Notwithstanding anything to the contrary, in no event will Contractor be (a) liable for claims, liabilities or damages (i) that could not reasonably have been foreseen upon entry into this Agreement; (ii) arising from any action or inaction by Contractor in response to specific direction from City; (iii) in connection with any City monies not collected by Contractor nor (iv) in connection with the issuance, non-issuance or revocation of any registration, license, permit, or exemption; nor (b) required to provide a defense in connection with any indemnification or hold harmless provisions arising from such issuance, non-issuance, or revocation.

5. INSURANCE

a. Contractor shall maintain in full force and effect all of the insurance coverage described in, and in accordance with, Attachment One, "Insurance Requirements." Maintenance of the insurance coverage set forth in Attachment One is a material element of this Agreement and a material part of the consideration provided by Contractor in exchange for City's agreement to make the payments prescribed hereunder. Failure by Contractor to (i) maintain or renew coverage, (ii) provide City notice of any changes, modifications, or reductions in coverage, or (iii) provide evidence of renewal, may be treated by City as a material breach of this Agreement by Contractor, whereupon City shall be entitled to all rights and remedies at law or in equity, including but not limited to immediate termination of this Agreement. Notwithstanding the foregoing, any failure by Contractor to maintain required insurance coverage shall not excuse or alleviate Contractor from any of its other duties or obligations under this Agreement. In the event Contractor, with approval of City pursuant to Section 6 below, retains or utilizes any subcontractors in the provision of any services to City under this Agreement, Contractor shall assure that any such subcontractor has first obtained, and shall maintain, all of the insurance coverages set forth in the Insurance Requirements in Attachment One.

b. Contractor agrees that any available insurance proceeds broader than or in excess of the coverages set forth in the Insurance Requirements in Attachment One shall be available to the additional insureds identified therein.

c. Contractor agrees that the insurance coverages and limits provided under this Agreement are the greater of: (i) the coverages and limits specified in Attachment One, or (ii) the broader coverages and maximum limits of coverage of any insurance policy or proceeds available to the name insureds.

6. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement to a third party without the express prior written consent of City, in City's sole and absolute discretion. Contractor agrees that the City shall have the right to approve any and all subcontractors to be used by Contractor in the performance of this Agreement before Contractor contracts with or otherwise engages any such subcontractors.

7. NOTICES

Except as otherwise provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party, shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

City Representative:

Lisa Gebhart-Longhurst
Administrative Services Manager
City Hall Annex
90 Santa Rosa Avenue
Santa Rosa, CA 95404

Contractor Representative:

Andrew Nickerson
120 S. State College Blvd. #200, Brea, CA
92821
714-879-5000

8. INDEPENDENT CONTRACTOR

a. It is understood and agreed that Contractor (including Contractor's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither Contractor nor Contractor's assigned personnel shall be entitled to any benefits payable to employees of City. City is not required to make any deductions or withholdings from the compensation payable to Contractor under the provisions of this Agreement, and Contractor shall be issued a Form 1099 for its services hereunder. As an independent contractor, Contractor hereby agrees to indemnify and hold City harmless from any and all claims that may be made against City based upon any contention by any of Contractor's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any services under this Agreement.

b. It is further understood and agreed by the parties hereto that Contractor, in the performance of Contractor's obligations hereunder, is subject to the control and direction of City as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by Contractor for accomplishing such results. To the extent that Contractor obtains permission to, and does, use City facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the Contractor's sole discretion based on the Contractor's determination that such use will promote Contractor's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the City does not require that Contractor use City facilities, equipment or support services or work in City locations in the performance of this Agreement.

c. If, in the performance of this Agreement, any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision, and control of Contractor. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by Contractor. It is further understood and agreed that Contractor shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of Contractor's assigned personnel and subcontractors.

d. The provisions of this Section 8 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between City and Contractor. Contractor may represent, perform services for, or be employed by such additional persons or companies as Contractor sees fit.

9. ADDITIONAL SERVICES

Changes to the Scope of Services shall be by written amendment to this Agreement and shall be paid in accordance with the rates set forth in Exhibit A, or paid as otherwise agreed upon by the parties in writing prior to the provision of any such additional services.

10. SUCCESSORS AND ASSIGNS

City and Contractor each binds itself, its partners, successors, legal representatives and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect of all promises and agreements contained herein.

11. TERM, SUSPENSION, TERMINATION FOR CONVENIENCE AND CAUSE

a. This Agreement shall become effective on the date that it is made, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

b. City shall have the right at any time to temporarily suspend Contractor's performance hereunder, in whole or in part, by giving a written notice of suspension to Contractor. If City gives such notice of suspension, Contractor shall immediately suspend its activities under this Agreement, as specified in such notice.

c. City shall have the right to terminate this Agreement for convenience at any time upon written sixty (60) day notice of termination to Contractor. Upon such termination, Contractor shall submit to City an itemized statement of services performed as of the date of termination in accordance with Section 2 of this Agreement. These services may include both completed work and work in progress at the time of termination. City shall pay Contractor for any services for which compensation is owed; provided, however, City shall not in any manner be liable for lost profits that might have been made by Contractor had the Agreement not been terminated or had Contractor completed the services required by this Agreement. Contractor shall promptly deliver to City all documents related to the performance of this Agreement in its possession or control. All such documents shall be the property of City without additional compensation to Contractor. Contractor shall have the right to terminate this Agreement for convenience at any time upon written sixty (60) day notice to City.

d. City shall have the right to terminate this Agreement for cause upon written notice to Contractor following an Event of Default. The following shall be "Events of Default" hereunder and the term "Event of Default" shall mean, whenever it is used herein, any one or more of the following events:

(i) The failure by Contractor to perform any obligation under this Agreement, which by its nature Contractor has no capacity to cure;

(ii) The failure by Contractor to perform any other obligation under this Agreement, if the failure has continued for a period of ten (10) days after the City demands in writing that Contractor cure the failure. If, however, by its nature the failure cannot be cured within ten (10) days, Contractor may have a longer period as is necessary to cure the failure, but this is conditioned upon Contractor's promptly commencing to cure within the ten (10) day period and thereafter diligently completing the cure. Contractor shall indemnify and defend the City against any liability, claim, damage, loss, or penalty that may be threatened or may in fact arise from that failure during the period the failure is uncured;

(iii) Any of the following: A general assignment by Contractor for the benefit of Contractor's creditors; any voluntary filing, petition, or application by Contractor under any law relating to insolvency or bankruptcy, whether for a declaration of bankruptcy, a reorganization, an arrangement, or otherwise;

(iv) The appointment of a trustee or receiver to take possession of all or substantially all of Contractor's assets; or the attachment, execution or other judicial seizure of all or substantially all of Contractor's assets or of Contractor's interest in this Agreement, unless the appointment or attachment, execution, or seizure is discharged within thirty (30) days; or the involuntary filing against Contractor, or any general partner of Contractor if Contractor is a partnership, or

(a) a petition to have Contractor, or any partner of Contractor if Contractor is a partnership, declared bankrupt, or

(b) a petition for reorganization or arrangement of Contractor under any law relating to insolvency or bankruptcy, unless, in the case of any involuntary filing, it is dismissed within sixty (60) days.

(v) Any representation or warranty related to this Agreement made by any agent of Contractor is determined to have been false or misleading in any material respect at the time made.

12. REMEDIES UPON DEFAULT

This Section 12 shall apply in the event the amount payable under this Agreement exceeds the simplified acquisition threshold as determined pursuant to section 1908 of title 41 of the United States Code, or \$150,000, whichever amount is greater.

a. Remedies on Event of Default. Upon the occurrence of an Event of Default as defined in Section 11, City shall have the right upon written notice to Contractor, in addition to any other rights or remedies available to City at law or in equity, to:

(i) Terminate this Agreement and all rights of Contractor under this Agreement, (ii) Continue this Agreement without terminating the Agreement, or (iii) Temporarily suspend Contractor's performance hereunder, in whole or in part, and recover from Contractor the aggregate sum of;

(1) any amount necessary to compensate City for all the detriment caused by Contractor's failure to perform its obligations or that, in the ordinary course of things, would be likely to result from its failure; and

(2) all other amounts in addition to or in lieu of those previously set out as may be permitted from time to time by applicable California or Federal law.

(b) None of the previous remedial actions, alone or in combination, shall be construed as an election by City to terminate this Agreement unless City has in fact given Contractor written notice that this Agreement is terminated or unless a court of competent jurisdiction decrees termination of this Agreement. If City takes any of the previous remedial actions without terminating this Agreement City may nevertheless at any later time terminate this Agreement by written notice to Contractor.

(c)

(d) No security or guaranty for the performance of Contractor's obligations that City may now or later hold shall in any way constitute a bar or defense to any action initiated by City for enforcement of any obligation of Contractor or for the recovery of damages caused by an Event of Default.

(e) Except where this is inconsistent with or contrary to any provisions of this Agreement, no right or remedy conferred upon or reserved to City is intended to be exclusive of any other right or remedy, or any right or remedy given or now or later existing at law or in equity or by statute. Except to the extent that City may have otherwise agreed in writing, no waiver by City of any violation or nonperformance by Contractor of any obligations, agreements, or covenants under this Agreement shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by City to exercise a remedy for any violation or nonperformance by Contractor be deemed a waiver by City of the rights or remedies with respect to that violation or nonperformance.

(f) Indemnification. The exercise of City of any one or more of the remedies set forth in this Section 12 shall not affect the rights of City or the obligations of Contractor under the indemnity provisions set forth in Section 4 hereof.

(g) No Remedy Exclusive. No remedy herein conferred upon or reserved to City is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle City to exercise any remedy reserved to it in this subsection it shall not be necessary to give any notice, other than such notice as may be required in this Section or by law.

(h) Notice of Default. Contractor agrees that, as soon as is practicable, and in any event within ten (10) days after such event, Contractor will furnish City notice of any event which is an Event of Default under this Agreement, or which with the giving of notice or the passage of time or both could constitute an Event of Default under this Agreement, which has occurred and is continuing on the date of such notice, which notice shall set forth the nature of such event and the action which Contractor proposes to take with respect thereto. Each subcontract shall include the provisions of this subsection (h) to require each subcontractor of Contractor to provide City notice of any Event of Subcontractor Default in the same manner as required hereunder of Contractor for an Event of Default.

13. TIME OF PERFORMANCE

The services described herein shall be provided during the period, or in accordance with the schedule, set forth in Exhibit A. Contractor shall complete all the required services and tasks and complete and tender all deliverables to the reasonable satisfaction of City, not later than September 30, 2030. The five (5) year term can be amended for an additional five (5) year term.

14. STANDARD OF PERFORMANCE

Contractor shall perform all services performed under this Agreement in the manner and according to the standards currently observed by a competent practitioner of Contractor's profession in California. All products of whatsoever nature that Contractor delivers to City shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in Contractor's profession, and shall be provided in accordance with any schedule of

performance. Contractor shall assign only competent personnel to perform services under this Agreement. Contractor shall notify City in writing of any changes in Contractor's staff assigned to perform the services under this Agreement prior to any such performance. In the event that City, at any time, desires the removal of any person assigned by Contractor to perform services under this Agreement, because City, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, Contractor shall remove such person immediately upon receiving notice from City of the desire of City for the removal of such person.

15. CONFLICTS OF INTEREST

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of City or that would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of City. Contractor agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City at all times during the performance of this Agreement.

16. CONFLICT OF INTEREST REQUIREMENTS

a. **Generally.** The City's Conflict of Interest Code requires that individuals who qualify as "consultants" under the Political Reform Act, California Government Code sections 87200 *et seq.*, comply with the conflict of interest provisions of the Political Reform Act and the City's Conflict of Interest Code, which generally prohibit individuals from making or participating in the making of decisions that will have a material financial effect on their economic interests. The term "consultant" generally includes individuals who make governmental decisions or who serve in a staff capacity.

b. **Conflict of Interest Statements.** The individual(s) who will provide services or perform work pursuant to this Agreement are "consultants" within the meaning of the Political Reform Act and the City's Conflict of Interest Code:

☒ yes ☐ no (*check one*)

If "yes" is checked by the City, Contractor shall cause the following to occur within 30 days after execution of this Agreement:

- (1) Identify the individuals who will provide services or perform work under this Agreement as "consultants;" and
- (2) Cause these individuals to file with the City Clerk the assuming office statements of economic interests required by the City's Conflict of Interest Code.

Thereafter, throughout the term of the Agreement, Contractor shall cause these individuals to file with the City Clerk annual statements of economic interests, and "leaving office" statements of economic interests, as required by the City's Conflict of Interest Code.

The above statements of economic interests are public records subject to public disclosure under the California Public Records Act. The City may withhold all or a portion of any payment due under this Agreement until all required statements are filed.

17. CONFIDENTIALITY OF CITY INFORMATION

During performance of this Agreement, Contractor may gain access to and use City information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets of the City. Contractor agrees to protect all City Information and treat it as strictly confidential, and further agrees that Contractor shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of City. In addition, Contractor shall comply with all City policies governing the use of the City network and technology systems. A violation by Contractor of this Section 17 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

18. CONTRACTOR INFORMATION

a. City shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by Contractor pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostatting, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. This does not include any software, programs, methodologies or systems used in the creation of such work product, nor does it include any drafts, notes or internal communications prepared by Contractor in the course of performing the Services that were not otherwise provided to City in either hardcopy or electronic form, all of which may be protected by Contractor or others' copyrights or other intellectual property. Contractor shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by City.

b. Contractor shall fully indemnify and hold harmless City, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by Contractor pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. City shall make reasonable efforts to notify Contractor not later than ten (10) days after City is served with any such claim, action, lawsuit or other proceeding, provided that City's failure to provide such notice within such time period shall not relieve Contractor of its obligations hereunder, which shall survive any termination or expiration of this Agreement.

c. All proprietary and other information received from Contractor by City, whether received in connection with Contractor's proposal, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to City, City shall give notice to Contractor of any request for the disclosure of such information. Contractor shall then have five (5) days from the date it receives such notice to enter into an agreement with the City, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorneys' fees) incurred by City in any legal action to compel the disclosure of such information under the California Public Records Act. Contractor shall have sole responsibility for defense of the actual "trade secret" designation of such information.

d. The parties understand and agree that any failure by Contractor to respond to the notice provided by City and/or to enter into an agreement with City, in accordance with the provisions of subsection c, above, shall constitute a complete waiver by Contractor of any rights regarding the information designated "trade secret" by Contractor, and such information shall be disclosed by City pursuant to applicable procedures required by the Public Records Act.

e. Section 7056 of the State of California Revenue and Taxation Code ("R&T Code") specifically limits the disclosure of confidential taxpayer information contained in the records of the California Department of Tax and Fee Administration ("CDTFA"). Section 7056 specifies the conditions under which a city, county or district may authorize persons other than such city, county or district's officers and employees to examine state sales and use tax records. The following conditions specified in Section 7056-(b)(1) of the State of California R&T Code are hereby made part of this Agreement:

- (1) Contractor is authorized by this Agreement to examine sales, use or transactions and use tax records of the CDTFA provided to City pursuant to contract under the Bradley-Burns Uniform Local Sales and Use Tax Law R&T Code Section 7200 et.seq.
- (2) Contractor is required to disclose information contained in, or derived from, those sales or transactions and use tax records only to an officer or employee of City who is authorized by City resolution provided to the CDTFA to examine the information.
- (3) Contractor is prohibited from performing consulting services for a retailer (as defined in R&T Code Section 6015), during the term of this agreement.
- (4) Contractor is prohibited from retaining the information contained in or derived from those sales, use or transactions and use tax records after this agreement has expired. Information obtained by examination of the CDTFA records shall be used only for purposes related to collection of local sales and use tax or for other governmental functions of the City as set forth by resolution adopted pursuant to Section 7056 (b) of the Revenue and Taxation Code. The resolution shall designate the Contractor as a person authorized to examine sales and use tax records and certify that this agreement meets the requirements set forth above and in Section 7056 (b), (1) of the Revenue and Taxation Code.

19. FEDERAL PROVISIONS

Contractor shall comply with the provisions in Exhibit B to this Agreement. In the event of a conflict between any provision in Exhibit B and any other provision of this Agreement, the more stringent provision shall control and prevail.

20. GENERAL PROVISIONS

a. Entire Agreement. This Agreement contains the entire agreement between the parties. Any and all verbal or written agreements made prior to the date of this Agreement are superseded by this Agreement and shall have no further effect.

b. Modification. No modification or change to the terms of this Agreement will be binding on a party unless in writing and signed by an authorized representative of that party.

c. Compliance with Laws. Contractor shall perform all services described herein in compliance with all applicable federal, state and local laws, rules, regulations, and ordinances, including but not limited to, (i) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.) ("ADA"), and any regulations and guidelines issued pursuant to the ADA; and (ii) Labor Code sections 1720, et seq., which require prevailing wages (in accordance with DIR determinations at www.dir.ca.gov) be paid to any employee performing work covered by Labor Code sections 1720 et seq. Contractor shall pay to City when due all business taxes payable by Contractor under the provisions of Chapter 6-04 of the Santa Rosa City Code. City may deduct any delinquent business taxes, and any penalties and interest added to the delinquent taxes, from its payments to Contractor.

d. Discrimination Prohibited. With respect to the provision of services under this Agreement, Contractor agrees not to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of that person.

e. Governing Law; Venue. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California and Federal law. Venue of any litigation arising out of or connected with this Agreement shall lie in the state trial court in Sonoma County in the State of California or the United States District Court, Northern District of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

f. Waiver of Rights. Neither City acceptance of, or payment for, any service or performed by Contractor, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

g. Incorporation of Attachments and Exhibits. The attachments and exhibits to this Agreement are incorporated and made part of this Agreement, subject to terms and provisions herein contained.

21. AUTHORITY; SIGNATURES REQUIRED FOR CORPORATIONS

Contractor hereby represents and warrants to City that it is (a) a duly organized and validly existing corporation, formed and in good standing under the laws of the State of California, (b) has the power and authority and the legal right to conduct the business in which it is currently engaged, and (c) has all requisite power and authority and the legal right to consummate the transactions contemplated in this Agreement. Contractor hereby further represents and warrants that this Agreement has been duly authorized, and when executed by the signatory or signatories listed below, shall constitute a valid agreement binding on Contractor in accordance with the terms hereof.

If this Agreement is entered into by a corporation, it shall be signed by two corporate officers, one from each of the following two groups: a) the chairman of the board, president or any vice-president; b) the secretary, any assistant secretary, chief financial officer, or any assistant treasurer. The title of the corporate officer shall be listed under the signature.

22. COUNTERPARTS AND ELECTRONIC SIGNATURES

This Agreement and future documents relating thereto may be executed in two or more

counterparts, each of which will be deemed an original and all of which together constitute one Agreement. Counterparts and/or signatures delivered by facsimile, pdf or City-approved electronic means have the same force and effect as the use of a manual signature. Both City and Contractor wish to permit this Agreement and future documents relating thereto to be electronically signed in accordance with applicable federal and California law. Either Party to this Agreement may revoke its permission to use electronic signatures at any time for future documents by providing notice pursuant to the Agreement. The Parties agree that electronic signatures, by their respective signatories are intended to authenticate such signatures and to give rise to a valid, enforceable, and fully effective Agreement. The City reserves the right to reject any signature that cannot be positively verified by the City as an authentic electronic signature.

Executed as of the day and year first above stated.

CONTRACTOR:

CITY OF SANTA ROSA
a Municipal Corporation

Name of Firm: Hinderliter de Llamas and
Associates

TYPE OF BUSINESS ENTITY (*check one*):

☐ Individual/Sole Proprietor
☐ Partnership
☒ Corporation
☐ Limited Liability Company
☐ Other (please specify: _____)

By: _____

Print Name: Mark Stapp

Title: Mayor

APPROVED AS TO FORM:

Signatures of Authorized Persons:

By: _____

Office of the City Attorney

Print Name: Andrew Nickerson

ATTEST:

Title: President / CEO

By: _____

City Clerk

Print Name: Richard
Park _____

Title: CFO

City of Santa Rosa Business Tax Cert. No.

Attachments:

Attachment One - Insurance Requirements
Exhibit A - Scope of Services & Compensation

ATTACHMENT ONE INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES AGREEMENTS

A. Insurance Policies: Consultant shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A-:VI or otherwise acceptable to the City.

Insurance	Minimum Coverage Limits	Additional Coverage Requirements
1. Commercial general liability	\$ 1 million per occurrence \$ 2 million aggregate	Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. Coverage may be met by a combination of primary and umbrella or excess insurance but umbrella and excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.
2. Business auto coverage	\$ 1 million	ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$ 1 million per accident for bodily injury and property damage.
3. Professional liability (E&O)	\$ 1 million per claim \$ 1 million aggregate	Consultant shall provide on a policy form appropriate to profession. If on a claims made basis, Insurance must show coverage date prior to start of work and it must be maintained for three years after completion of work.
4. Workers' compensation and employer's liability	\$ 1 million	As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than \$ 1 million per accident for bodily injury or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents and subcontractors.

B. Endorsements:

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled, except after prior written notice has been provided to the City in accordance with the policy provisions.

2. Liability, umbrella and excess policies shall provide or be endorsed to provide the following:
 - a. For any claims related to this project, Consultant's insurance coverage shall be primary and any insurance or self-insurance maintained by City shall be excess of the Consultant's insurance and shall not contribute with it; and,
 - b. **The City of Santa Rosa, its officers, agents, employees and volunteers are to be covered as additional insureds on the CGL policy.** General liability coverage can be provided in the form of an endorsement to Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

C. Verification of Coverage and Certificates of Insurance: Consultant shall furnish City with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the City before work commences and must be in effect for the duration of the Agreement. The City reserves the right to require complete copies of all required policies and endorsements.

D. Other Insurance Provisions:

1. No policy required by this Agreement shall prohibit Consultant from waiving any right of recovery prior to loss. Consultant hereby waives such right with regard to the indemnitees.
2. All insurance coverage amounts provided by Consultant and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
3. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Consultant or City. Self-insured retentions above \$10,000 must be approved by City. At City's option, Consultant may be required to provide financial guarantees.
4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
5. City reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

EXHIBIT A

SERVICES

SERVICES – Sales and Use Tax

1. Sales and Use Tax and Economic Analysis/Forecasting Services/Reports

- 1.1. Establish a special database identifying the name, address, and quarterly allocations of all sales tax producers within the City. This database will be utilized to generate special reports to City on major sales tax producers by rank and category, sales tax activity by categories, or business districts, identification of reporting aberrations, and per capita and outlet comparisons with regional and statewide sales.
- 1.2. Provide periodic updated reports to City identifying changes in sales by individual businesses, business groups and categories, and by geographic area. These reports may include, without limitation, quarterly aberrations due to State audits, fund transfers, and receivables, along with late or double payments, and quarterly reconciliation worksheets to assist with budget forecasting. Consultant shall meet quarterly by in person or virtually with City.
- 1.3. Shall additionally provide following each calendar quarter a summary analysis for City to share with Council Members, Chamber of Commerce, other economic development interest groups and the public that analyze City's sales tax trends by major groups and geographic areas without disclosing confidential individual tax records.
- 1.4. Establish a special database with California Department of Tax and Fee Administration ("CDTFA") registration data for businesses within applicable district boundaries holding seller's permit accounts.
- 1.5. Periodically license for the limited, non-exclusive, non-transferable use by City's staff certain of Consultant's web-based sales, use and/or transactions tax program(s) containing sellers permit, registration, allocation and related information for business outlets within City's jurisdiction registered with the CDTFA.
- 1.6. Provide periodic updated reports endeavoring to identify and assist with budget forecasting (i) changes in allocation totals by individual businesses, business groups and categories, and (ii) aberrations due to State audits, fund transfers, and receivables, along with late or double payments.

2. Allocation and Audit Recovery Services

- 2.1. Conduct (when mutually agreed with City) initial and on-going sales and use tax audits of businesses to help identify and correct distribution and allocation errors, and to proactively affect favorable registration, reporting or formula changes thereby generating previously unrealized sales and use tax income for the City and/or recovering misallocated tax from registered taxpayers. Common errors that will be monitored and corrected include but are not limited to: transposition errors resulting in misallocations; erroneous consolidation of multiple outlets; formula errors; misreporting of "point of sale" to the wrong location; delays in reporting new outlets; misallocating use tax payments to the allocation pools or wrong jurisdiction; and erroneous fund transfers and adjustments.
- 2.2. Initiate contacts with the CDTFA and sales management and accounting officials in companies that have businesses where a probability of error exists to endeavor to help verify whether current tax receipts accurately reflect the local sales activity. Such contacts will be conducted in a professional and courteous manner.

- 2.3. Prepare and submit to the CDTFA information for the purpose of correcting any identified allocation errors, and follow-up with individual businesses and the CDTFA to promote recovery by the City of back or prospective quarterly payments that may be owing.
- 2.4. If, during the course of its audit, Consultant finds businesses located in the City's jurisdiction that are properly reporting sales and use tax but have the potential for modifying their operation to provide an even greater share to City, Consultant may so advise City and collaborate with those businesses and City to encourage such changes.

SERVICES – Transaction and Use Tax

3. Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 3.1 Consultant shall establish a database containing all applicable Department of Tax and Fee Administration (CDTFA) registration data for each business within the Measures "O and Q" District boundaries holding a seller's permit account. Said database shall also identify the quarterly transactions and use tax allocations under each account for the most current and previous quarters where available.
- 3.2 Consultant shall provide updated reports each quarter identifying changes in allocation totals by individual businesses, business groups and by categories. Quarterly aberrations due to State audits, fund transfers, and receivables, along with late or double payments, will also be identified. Quarterly reconciliation worksheets to assist finance officer with budget forecasting will be included.
- 3.3. Consultant shall advise and work with CITY Staff on planning and economic questions related to maximizing revenues, preparation of revenue projections and general information on transactions and use tax questions.
- 3.4. Consultant shall make available to CITY the HdL proprietary software program and Measures "O and Q" database containing all applicable registration and quarterly allocation information for CITY business outlets registered with the Department of Tax and Fee Administration. The database will be updated quarterly.

4. Deficiency/Allocation Reviews and Recovery

- 4.1. Consultant shall conduct on-going reviews to identify and correct unreported transactions and tax payments and distribution errors thereby generating previously unrealized revenue for the City. Reviews shall include:
 - 4.1.(a) Comparison of county-wide local tax allocations to transactions tax for brick and mortar stores and other cash register-based businesses, where clearly all transactions are conducted on-site within the Measures "O and Q" City boundaries, and therefore subject to transactions tax.
 - 4.1.(b) Review of any significant one-time use tax allocations to ensure that there is corresponding transaction tax payments for taxpayers with nexus within the City boundaries.
 - 4.1.(c) Review of state-wide transactions tax allocations and patterns to identify any obvious errors and omissions.
 - 4.1.(d) Identification and follow-up with any potentially large purchasers of supplies and equipment (e.g. hospitals, universities, manufacturing plants, agricultural operations, refineries) to ensure that their major vendors are properly reporting corresponding transactions tax payments to the Measures "O and Q" Transactions Tax District.
- 4.2. Consultant will initiate, where the probability of an error exists, contacts with the appropriate taxpayer management and accounting officials to verify whether current tax receipts accurately reflect the local sales activity. Such contacts will be conducted in a professional and courteous manner so as to enhance CITY's relations with the business community.

- 4.2. Consultant shall prepare and submit to the Department of Tax and Fee Administration all information necessary to correct any allocation errors and deficiencies that are identified and shall follow-up with the individual businesses and the California Department of Tax and Fee Administration to ensure that all back quarter payments due the CITY are recovered.

5. Consulting and Other Optional Services

Consultant may from time to time in its sole discretion, consult with City's staff, including without limitation, regarding (i) technical questions and other issues related to sales, use and transactions tax, (ii) utilization of reports to enhance business license collection efforts, (iii) sales tax projections for proposed annexations, economic development projects and budget planning, (iv) negotiating/review of tax sharing agreements, (v) establishing purchasing corporations, (vi) meeting with taxpayers to encourage self-assessment of tax obligations, and (vii) other sales, use or transactions tax revenue-related matters.

SERVICES – Transient Occupancy Tax

6. Operations Management Services

- 6.1. Establish and maintain database of Client lodging providers.
- 6.2. Receive and process registrations, tax returns and payments in a timely fashion.
- 6.3. Provide lodging providers multiple options for submitting registrations, tax returns, payments, or support requests (including via website, email, mail, phone, and fax. Consultant tax specialists will be available for live interactions Monday through Friday, 8:00am to 5:00pm Pacific).
- 6.4. Remit revenue to Client no less than monthly.
- 6.5. Provide Client staff access to website portal offering lodging provider registry inquiry and reporting capabilities.
- 6.6. Endeavor to ensure accurate filings of returns by consistently monitoring returns, providing compliance audits, and educating lodging providers as mutually agreed to by Client and Consultant.
- 6.7. Provide analysis reports monthly and annually provide revenue trends and key insights on Client lodging providers.

7. Online Payment Processing – Consultant's services include PCI compliant payment processing services which supports both credit card and eCheck transactions.

7.1. Client Responsibilities

- 7.1.1. As a condition to its receipt of the Service, Client shall execute and deliver any and all applications, agreements, certifications or other documents required by Consultant's payment processor, Networks or other third parties whose consent or approval is necessary for the processing of Transactions by Consultant's payment processor. "Network" is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle Transactions among themselves, including, for example, networks operated by VISA USA and Mastercard, Inc., NYCE Corporation, American Express, and Discover.
- 7.1.2. Client hereby grants Consultant the full right, power and authority to request, receive and review any Data or records reflected in a Transaction report. Client represents and warrants that it has the full right and authority to grant these rights.

8. Short Term Rentals Operations Management Services - Optional

- 8.1. Establish and maintain database of Client's short-term rental lodging providers.

- 8.2. Receive and process registrations, tax returns and payments in a timely fashion.
- 8.3. Provide lodging providers multiple options for submitting registrations, tax returns, payments, or support requests (including via website, email, mail, phone, and fax. Consultant tax specialists will be available for live interactions Monday through Friday, 8:00am to 5:00pm Pacific).
- 8.4. Remit revenue to Client no less than monthly.
- 8.5. Provide Client staff access to website portal offering lodging provider registry inquiry and reporting capabilities.
- 8.6. Provide analysis reports monthly and annually provide revenue trends and key insights on Client lodging providers.
- 9. Short Term Rentals Online Payment Processing** – Consultant’s services include PCI compliant payment processing services which supports both credit card and eCheck transactions.
- 9.1. Client Responsibilities
 - 9.1.1. As a condition to its receipt of the Service, Client shall execute and deliver any and all applications, agreements, certifications or other documents required by Consultant’s payment processor, Networks or other third parties whose consent or approval is necessary for the processing of Transactions by Consultant’s payment processor. “Network” is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle Transactions among themselves, including, for example, networks operated by VISA USA and Mastercard, Inc., NYCE Corporation, American Express, and Discover.
 - 9.1.2. Client hereby grants Consultant the full right, power and authority to request, receive and review any Data or records reflected in a Transaction report. Client represents and warrants that it has the full right and authority to grant these rights.

SERVICES – Franchise Fees Audit

- 10. Franchise Fee Audit** - Consultant’s work as set forth below is defined as “Agreed Upon Procedures” and is not a traditional review of financial statements as defined by Generally Accepted Reviewing Standards (“GAAS”). A traditional review includes the issuance of an opinion stating whether the financial statements are presented fairly in conformity with Generally Accepted Accounting Principles (“GAAP”). Because the procedures listed do not constitute a traditional review, Consultant will not express an opinion on the Companies’ or the City’s financial statements or any elements, accounts, or items thereof. Consultant’s analysis and report will related only to an analysis of Companies’ gross revenues and related elements of expenses. Consultant’s work identifies the steps we perform to ensure that the Companies accurately paid franchise and PEG fees to City. Consultant’s work includes:
 - 10.1. Overall Tasks
 - 10.1.1. Contact City’s staff and obtain documentation required to kick off the project.
 - 10.1.2. Review the franchise agreements and requirements under DIVCA to understand the definition of gross revenues and the determination of franchise and PEG fees.
 - 10.1.3. Prepare initial data requests to the Companies and the City requesting information related to the review period. During the project, if needed, prepare additional data requests and submit them to the Companies.
 - 10.1.4. Execute non-disclosure agreements (NDAs) with the Companies, if required.
 - 10.1.5. Correspond with the Companies and the City, as required via phone and email, to obtain documentation, resolve issues, and obtain any appropriate assistance.
 - 10.2. Review of Franchise and PEG Fees
 - 10.2.1. Recalculate the franchise and PEG fees paid to City for the review period.

- 10.2.2. Identify all sources of gross revenues generated during the review period for which the City is due payments, including those revenues that the Companies did not include in determining franchise and PEG fees.
- 10.2.3. Verify that the Companies' accounting methodologies accurately calculated the gross revenues generated within the City during the review period. Investigate any inconsistencies and provide recommendations, if applicable.
- 10.2.4. Ensure that the general ledger's gross revenues are included in the gross revenues reported to the City in accordance with the franchise agreements and DIVCA.
- 10.2.5. On a test basis, reconcile gross revenues submitted as supporting documentation with the franchise fee payments to revenues recorded on the audited financial statements or equivalent reporting information.
- 10.2.6. Identify each revenue type or source that the Companies did not include in determining the franchise and PEG fees remitted to the City for the review period.
- 10.2.7. Ensure that gross revenues recorded on the general ledger are correctly included in the franchise fee payments in accordance with the franchise agreements and DIVCA.
- 10.2.8. Review other revenues consistent with the franchise agreements and DIVCA to determine whether they were correctly included in reported revenues.
- 10.2.9. Review non-sufficient funds fees, late fees, and administrative fees to ensure that they are correctly included in the gross revenues reported to the City.
- 10.2.10. Review bad debt expense and bad debt recoveries reported to the City.
- 10.2.11. Review and recalculate allocation of non-subscriber revenues to ensure that they are correctly included in gross revenues reported to the City.
- 10.2.12. Reconcile advertising revenues reported in franchise and PEG fee payments to supporting documentation provided by the Companies.
- 10.2.13. Review any "contra-expenses" recorded by the Companies to ensure that amounts were accurately reported to the City.
- 10.3. **SUMMARIZE RESULTS AND ISSUE REPORTS**
 - 10.3.1. Analyze franchise and PEG fees reported to the City by category of revenues.
 - 10.3.2. Calculate under/overpayment of the amount due to the City, interest charges and applicable fees on under/overpayments of the franchise fees.
 - 10.3.3. Submit final reports to the City. The reports will include our findings, including a recalculation of the franchise fees and determination of any deficiencies plus applicable interest due to the City.
- 10.4. **ADDITIONAL SERVICES** – Consultant is available to assist in resolving with the Companies any disputed issues as to amounts owed to the City. Additional services would include assisting the City in its negotiations with the Companies. Typically, we participate in conference calls, discuss our findings with the Companies, and assist the City in negotiating a settlement with the Companies. We are also available to perform other additional services, such as: meet with the City to discuss our findings; make presentations of our report to the City; and provide support and testimony if this matter is litigated.
- 10.5. **INFORMATION REQUIRED FROM THE CITY** – Consultant will prepare the initial data requests to send to the Companies requesting data regarding franchise and PEG fee payments to initiate the reviews. City staff will be required to furnish Consultant with copies of the following items to proceed with the projects:
 - 10.5.1. Quarterly franchise and PEG fee payments and all supporting documentation
 - 10.5.2. True-up and/or settlement payments
 - 10.5.3. Franchise agreements, transfer agreements and ordinances, settlement agreements

- 10.5.4. Rate cards and fee schedules
- 10.5.5. Any relevant correspondence related to franchise fee payments
- 10.5.6. Any other relevant information that may impact Consultant review

SERVICES – Utility Users Tax Administration

11. Support & Industry Monitoring

- 11.1. Provide analysis reports on the utility provider community and reporting details for each provider, including utility trends, provider trends, revenue trends, and a revenue forecast.
- 11.2. Actively monitor federal and state industry and legislative events which may impact UUT revenues, keep Client informed, and make recommendations regarding advocacy or other response as appropriate.
- 11.3. Compliance Monitoring to ensure accurate and timely filings.
 - 11.3.1. Review and respond to e-mails from utilities, third party administrators, and Client, and act as a liaison between the utilities and Clients.
 - 11.3.2. Within 15 days after the due date review accounts for timeliness of payment. Invoice penalties and interest when applicable and monitor accounts for receipt of payment.
 - 11.3.3. Balances due resulting from any deficiency determinations made from incorrect application of the tax will be pursued in a timely manner.
 - 11.3.4. Monitor payment data and trends and keep Client informed.
- 11.4. Ordinance and Filing Procedure Review – analysis of UUT and franchise fee ordinances and Client procedures to identify possible deficiencies, areas subject to legal challenge, or missing best practice provisions.

12. Operations Management Services - Optional

- 12.1. Establish and maintain database of Client utility providers.
- 12.2. Receive and process tax returns and payments within 5 days of receipt.
- 12.3. Receive and process registrations for new utility providers, providing support as necessary to ensure compliance with Client requirements.
- 12.4. Provide utility providers multiple options for submitting registrations, tax returns, payments, or support requests including via website, email, mail, phone, and fax. Consultant tax specialists will be available for live interactions Monday through Friday, 8:00am to 5:00pm Pacific.
- 12.5. Remit revenue to Client no less than monthly.
- 12.6. Provide Client staff access to website portal offering utility provider registry inquiry and reporting capabilities.

13. Online Payment Processing – Consultant’s services include PCI compliant payment processing services which supports both credit card and eCheck transactions.

- 13.1. Client Responsibilities
 - 13.1.1. As a condition to its receipt of the Service, Client shall execute and deliver any and all applications, agreements, certifications or other documents required by Consultant’s payment processor, Networks or other third parties whose consent or approval is necessary for the processing of Transactions by Consultant’s payment processor. “Network” is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle Transactions among themselves, including, for example, networks operated by VISA USA and Mastercard, Inc., NYCE Corporation, American Express, and Discover.

- 13.1.2. Client hereby grants Consultant the full right, power and authority to request, receive and review any Data or records reflected in a Transaction report. Client represents and warrants that it has the full right and authority to grant these rights.

SERVICES – Utility Users Tax Audit

14. Utility Users Tax Audit – Consultant work as set forth below is defined as “Agreed Upon Procedures” and is not a traditional review of financial statements as defined by Generally Accepted Reviewing Standards (“GAAS”). A traditional review includes the issuance of an opinion stating whether the financial statements are presented fairly in conformity with Generally Accepted Accounting Principles (“GAAP”). Because the procedures listed do not constitute a traditional review, Consultant will not express an opinion on the Companies’ or the Client’s financial statements or any elements, accounts, or items thereof. Consultant’s analysis and reports will relate only to an analysis of Companies’ gross revenues and related elements of expenses. Consultant’s work identifies the steps performed to ensure that the Companies accurately paid utility users’ tax to Client. Consultant’s work includes:

14.1. Overall Tasks

- 14.1.1. Contact Client’s staff and obtain documentation required to kick off the project.
- 14.1.2. Review Client’s municipal code related to utility users’ tax to understand the definition of gross revenues and the determination of utility users’ taxes.
- 14.1.3. Prepare initial data requests to the Companies and the Client requesting information related to the review period. During the project, if needed, prepare additional data requests and submit them to the Companies.
- 14.1.4. Execute non-disclosure agreements (NDAs) with the Companies, if required.
- 14.1.5. Correspond with the Companies and the Client, as required via phone and email, to obtain documentation, resolve issues, and obtain any appropriate assistance.

14.2. Review of Utility Users’ Taxes

- 14.2.1. Verify that the accounting methodologies and procedures used by the Companies accurately identify billed revenues generated within the Client during the review period subject to the utility users’ taxes. Investigate any inconsistencies and provide recommendations, if applicable.
- 14.2.2. Review payments to the Client and recalculate the utility users’ taxes for the review period.
- 14.2.3. On a test basis, reconcile billed revenues submitted as supporting documentation with the tax payments to revenues recorded on the audited financial statements or equivalent reporting information.
- 14.2.4. Identify each revenue type or source that the Companies did not include in the determination of the utility users’ taxes remitted to the Client for the review period and verify correctly excluded.
- 14.2.5. Reconcile revenues reported to the Client to the revenues on third party billing data on a test basis, depending on the findings noted and accuracy of the sample quarters tested.
- 14.2.6. Obtain a sample of customer bills and verify the calculation of the tax on the bill.
- 14.2.7. For each year, summarize every category of revenues reported to the Client and reconcile these revenues to the utility users’ taxes.

14.3. Procedures specific to Telecommunication Utility Users’ Taxes

- 14.3.1. Review the following, as applicable: enhanced service revenues, private line revenues, equipment lease and sales revenues, installation and maintenance agreement charges, late fees, non-sufficient funds fees, E911 charges, sales taxes, and state and federal USF charges.

Determine that these items are appropriately treated in the determination of the gross revenues reported to the Client.

- 14.3.2. Review the allocations of any bundled products consistent with accounting requirements (Accounting Standards Codifications 605 and 606) to ascertain the correct amount subject to the UUT is being determined.
- 14.3.3. Identify any exempt telecommunications revenues and determine if the customer meets the requirements for exempt status.
- 14.3.4. Determine whether gross revenues generated from Indefeasible Right of Use (“IRU”) agreements were correctly included in the revenue base to determine UUT payments to the Client.
- 14.3.5. Obtain a list of the reseller lease agreements. Determine whether revenues from reseller lease agreements were correctly included in the telecommunications revenue base to determine the UUT payments to the Client or whether the reseller self reports.
- 14.3.6. Review the allocation percentage and method utilized to calculate allocated revenues, such as the long-distance revenues between intrastate and interstate.
- 14.4. Summarize Results and Issue Reports
 - 14.4.1. Analyze utility users’ taxes reported to Client by category of revenues.
 - 14.4.2. Calculate under/overpayment of the amount due to Client, interest charges and applicable fees on under/overpayments of the utility users’ taxes.
 - 14.4.3. Submit final reports to Client. The reports will include Consultant findings, including a recalculation of the utility users’ taxes and determination of any deficiencies plus applicable interest due to Client.
- 14.5. Additional Services – Consultant is available to assist in resolving with the Companies any disputed issues as to amounts owed to the Client. Additional services would include assisting the Client in its negotiations with the Companies. Typically, we participate in conference calls, discuss our findings with the Companies, and assist the Client in negotiating a settlement with the Companies. We are also available to perform other additional services, such as: meet with the Client to discuss our findings; make presentations of our report to the Client; and provide support and testimony if this matter is litigated.

SERVICES – Cannabis Management

15. Cannabis Tax Market Analysis (City will notify Consultant in writing when this service will begin)

- 15.1. Consultant HdL shall conduct a market analysis of the cannabis industry in the City of Santa Rosa to help identify steps to maintain and enhance the City’s cannabis tax revenue base. The analysis would identify the number of commercial cannabis businesses in nearby jurisdictions, as well as nearby cannabis tax rates and revenue information where available. The analysis would recommend adjustments to the City’s cannabis tax rates where necessary to ensure that businesses within the City are competitive with those in the surrounding area and would also provide revenue projections to help inform budget decisions. The full scope of this analysis would be determined in consultation with the City at the time the service is requested

16. Annual Cannabis Revenue Audits

- 16.1. HdL will conduct an annual (12 month) audit of each cannabis business to verify the accuracy of the revenue reported and remitted to the City during the review period and will recommend a tax adjustment should the audit reveal any variances in reported revenue. Our experienced audit staff

will cross-analyze multiple business records to identify any variances, discrepancies or outliers to produce the most accurate measure of gross receipts on behalf of the City.

- 16.2. HdL will work with the City to develop the audit schedule and determine the appropriate review period for each business. We will prepare a notification letter informing the licensee of all records and documentation the business is required to provide. Our audit includes review of the business' Point-of-Sale (POS) system and METRC inventory data. We will analyze and compare this information with other data sources including City cannabis tax remittances, state and federal tax returns, CDTFA data, bank statements, sales receipts, and other financial documents as available, and will identify any variances or over/under reporting. Our auditors will calculate any taxes or fees due to the City and will prepare and issue a report.
- 16.3. HdL will provide a draft audit report to the commercial cannabis business. The business will be given an appropriate opportunity to respond or appeal the report in accordance with the City ordinance. HdL will review any documentation provided by the business to dispute the findings and will adjust the tax/fee assessment as necessary prior to issuing the final report to the City.
- 16.4. The cost for this service assumes a standard 12-month review period, which may be increased upon request. The cost does not include assistance with administrative appeals or enforcement.

17. Technical Assistance and Subject Matter Expertise

- 17.1. HdL will provide additional hours of general consulting to be utilized on an as-needed basis at the City's request. Such assistance may include technical assistance, subject matter expertise, education, presentations to the City Council, monitoring of changes to State laws and regulations, or other assistance as requested to ensure that the City's cannabis program is up to date and reflects current best practices.

18. Administration of Monthly Cannabis Business License Tax Collection

- 18.1. HdL shall develop monthly self-reporting and remittance procedures that will enable cannabis businesses to report their monthly gross receipts to the City and to remit the appropriate amount of taxes due. We will develop all necessary procedures, guidelines and forms, and will administer a secure portal through which businesses can file returns and submit payments. Our revenue management services provide monthly notification to each business to inform them when payments are due.
- 18.2. Payments can be accepted via credit card, E-check or cash. HdL will provide a report to the City each month with the total amounts collected and will provide the City with ongoing guidance and best-practices regarding cash handling policies, protocols and procedures.

SERVICES – Cannabis Compliance Inspections - Optional

- 19. Compliance Inspections** - HdL will conduct one or more on-site compliance inspections annually, as requested by the City, for each permitted cannabis business to determine compliance with State and/or local laws. If HdL identifies any non-compliant activities, we will provide the City with a recommended appropriate action to address the deficiency and to ensure future compliance by the permittee. The cost for these services includes all of the following:

- Notifying permittee of pending inspection
- On-site inspection to ensure that each business complies with all State and local laws and regulatory protocols for all of the following:
 - Inventory management
 - Cash handling procedures
 - Access control

- Video surveillance
- Product safety
- Alarm system maintenance and safety
- Lock standards
- Packaging and labeling
- Waste management
- Transportation documentation
- Surveillance equipment maintenance
- Occupational badges
- Business records
- Other items as necessary to ensure compliance with laws
- Preparation of a draft report detailing the findings of the inspection and providing recommendations for improvement where needed. If the inspection identifies any violations of law or other non-compliance issues, then HdL will prepare a notice to comply as an included part of the report.
- All travel costs associated with the inspection, assuming a minimum of four inspections per day. If fewer than four inspections are requested, HdL will charge for travel based upon hourly rates, or a flat fee to be determined in consultation with City.
- All phone, email and other communications involved in preparing for, scheduling and coordinating the inspections and providing the report.

Facilities greater than 30,000 square feet will be subject to an additional cost at HdL's hourly rate to account for the additional time involved in conducting inspections, documenting issues of non-compliance and preparing reports. HdL will notify the City in advance if additional hourly charges are necessary to complete the inspection.

Issuance of the inspection report constitutes completion of this service. The cost for this service does not include any follow-up re-inspection or review of any documents provided to address or contest any findings of non-compliance, nor does it include any assistance with administrative appeals, litigation, cannabis tax policy questions or guidance, or other services not directly associated with conducting the inspection. Any such additional services requested by the City would be subject to agreement by HdL and would be billed at HdL's standard hourly rate.

FEES

FEES – Sales and Use Tax Services

20. Sales and Use Tax and Economic Analysis/Forecasting Services/Reports

20.1. Fees for performing the sales tax and economic analysis/forecasting Services as described above shall initially be \$850 per month, commencing with the month of the Effective Date (hereafter referred to as "monthly fee"). The monthly fee shall be invoiced quarterly in arrears, and shall be paid by City no later than 30 days after the invoice date.

20.2. Consultant will increase the non-hourly Fees established above once a year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), as reported by the U.S. Bureau of Labor Statistics (the "CPI Change").

21. Allocation and Audit Recovery Services

- 21.1. Fees for performing the allocation and audit recovery Services described above shall be 15% of all new, increased and recovered sales and use tax revenue received by the City as a result, in whole or in part, of the allocation audit and recovery services (hereafter referred to as "audit fee"). The fee shall be paid notwithstanding any related City assistance, work in parallel, and/or incurrence of attorneys' fees or other costs or expenses in connection, with the relevant Services.
- 21.2. The Fee described above include, without limitation, State fund transfers received for back quarter reallocations and monies received in the second eight (8) consecutive reporting quarters following completion of Consultant's allocation audit and confirmation of the corrections by the CDTFA.
- 21.3. These Fees shall be paid by City upon Consultant's submittal of evidence of Consultant's relevant Services in support thereof, including, without limitation, copies of relevant communications between Consultant and the CDTFA and/or taxpayers.

FEES – Transactions Tax Services

22. Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 22.1. Fees shall be paid \$200 per measure monthly billed quarterly for the transaction district tax reports that we include with the quarterly sales tax analyses. The monthly fee shall be invoiced quarterly in arrears and shall be paid by City no later than 30 days after the invoice date.
- 22.2. Consultant may change the non-hourly Fees established above once a year. Any such change must be with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), as reported by the U.S. Bureau of Labor Statistics (the "CPI Change").

23. Allocation and Audit Recovery Services

- 23.1. Fees shall be paid 25% of the initial amount of new transactions or use tax revenue received by the City because of audit and recovery work performed by Consultant, (hereafter referred to as "audit fees"). New revenue shall not include any amounts determined and verified by City or Consultant to be increment attributable to causes other than Consultant's work pursuant to this agreement. In the event, Consultant is responsible for an increase in the tax reported by businesses already properly making tax payments to the City, it shall be Consultant's responsibility to separate and support the incremental amount attributable to its efforts prior to the application of the audit fee. Said audit fees will apply to state fund transfers received for those specific quarters identified as being missing and/or deficient following completion of the audit by Consultant and confirmation of corrections by the California Department of Tax and Fee Administration but shall not apply prospectively to any future quarter. Consultant shall provide City with an itemized quarterly invoice showing all formula calculations and amounts due for audit fees.

FEES – Transient and Occupancy Tax

24. Operations Management Services

- 24.1. Fees for performing operations management Services shall be \$900.00 per year/per monthly filing property and \$850.00 per year/per quarterly filing property.
- 24.2. Fees will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the "CPI Change"). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.

- 24.3. Fees for any travel and lodging expenses will be billed at cost and applied to all meetings (including implementation, training, operations and support).
- 24.4. Fees will be invoiced monthly to Client for Services performed during the prior month. Fees will be netted out of Client's monthly revenue disbursement. Client will submit payment for any balance due to Consultant within 30 days of receiving the invoice.
- 25. Payment Processing** – Consultant will configure payment processing services to utilize either a taxpayer funded model (convenience fee) or Client funded model, as directed by Client. Client may switch between these models upon written request to Consultant. Fees for each of these payment processing models are detailed here.
- 25.1. Taxpayer funded model – Client authorizes Consultant to collect each convenience fee from the taxpayer at time of payment.
- 25.1.1. Credit and debit card processing – 2.9% of transaction amount, minimum of \$2.00
- 25.1.2. ACH/eCheck processing - \$2.50 per transaction
- 25.2. Client funded
- 25.2.1. Credit and debit card processing – 2.9% of transaction amount
- 25.2.2. ACH/eCheck processing - \$0.75 per transaction
- 25.3. Returned payments/NSF fee – Each occurrence of a card chargeback, returned payment or insufficient funds will incur a fee of \$25.00, to be applied to the taxpayers account.
- 25.4. Consultant reserves the right to review and adjust pricing related to payment processing services on an annual basis. Consultant will communicate any such adjustment to Client in writing, with 60 days advance notice. Items that will be considered in the review of fees may include, but are not limited to: regulatory changes, card association rate adjustments, card association category changes, bank/processor dues and assessments, average consumer payment amounts, card type utilization, and costs of service.
- 26. Short Term Rentals Operations Management Services**
- 26.1. Fees for performing operations management Services shall be:
- \$16.00 per filing + CPI, (STR services are conditional on selecting HdL for TOT Operations Management).
 - \$85.00/property/year + CPI for property identification and monitoring
- 26.1.1. Fees will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the "CPI Change"). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.
- 26.2. Fees for any travel and lodging expenses will be billed at cost and applied to all meetings (including implementation, training, operations and support).
- 26.3. Fees will be invoiced monthly to Client for Services performed during the prior month. Fees will be netted out of Client's monthly revenue disbursement. Client will submit payment for any balance due to Consultant within 30 days of receiving the invoice.
- 27. Short Term Rentals Payment Processing** – Consultant will configure payment processing services to utilize either a taxpayer funded model (convenience fee) or Client funded model, as directed by Client. Client may switch between these models upon written request to Consultant. Fees for each of these payment processing models are detailed here.

- 27.1. Taxpayer funded model – Client authorizes Consultant to collect each convenience fee from the taxpayer at time of payment.
- 27.1.1. Credit and debit card processing – 2.9% of transaction amount, minimum of \$2.00
- 27.1.2. ACH/eCheck processing - \$2.50 per transaction
- 27.2. Client funded
- 27.2.1. Credit and debit card processing – 2.9% of transaction amount
- 27.2.2. ACH/eCheck processing - \$0.75 per transaction
- 27.3. Returned payments/NSF fee – Each occurrence of a card chargeback, returned payment or insufficient funds will incur a fee of \$25.00, to be applied to the taxpayers account.
- 27.4. Consultant reserves the right to review and adjust pricing related to payment processing services on an annual basis. Consultant will communicate any such adjustment to Client in writing, with 60 days advance notice. Items that will be considered in the review of fees may include, but are not limited to: regulatory changes, card association rate adjustments, card association category changes, bank/processor dues and assessments, average consumer payment amounts, card type utilization, and costs of service.

FEES – Franchise Fees Audit

- 28. Audit Services** – Consultant will review franchise fees and PEG fees (if applicable) for the most recent 3-year review period for an hourly rate of \$201.25 per hour + CPI, not to exceed \$27,000.00 per provider review.
- 28.1. If Client takes legal action to collect underpayments identified by Consultant, any additional services, e.g. expert testimony, by Consultant will be provided at an agreed hourly rate of \$250.00 per hour.
- 28.2. Fees for any travel and lodging expenses will be billed at cost and applied to all meetings (including implementation, training, operations and support).
- 28.3. Client will be invoiced monthly for Services performed during the prior month.
- 28.4. Review not to exceed amount will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the “CPI Change”). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.
- 28.5. Consultant may change the rates for its hourly Fees from time to time in its sole discretion upon at least 30 days’ prior written notice to Client.

FEES – Utility Users Tax Administration

29. Tax Administration Services

- 29.1. Fees for performing tax administration services operations management, shall be:
- \$10.00/filing + CPI, (Conditioning on selecting the industry monitoring services, or
 - 0.4% of City’s UUT Revenue
- 29.1.1. Fees will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics

(the “CPI Change”). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.

29.2. Travel and lodging expenses are billed at cost and apply to all meetings (including implementation, training, operations and support). Travel expenses only apply to out of scope travel and must therefore be pre-approved by Client.

29.3. Client will be invoiced monthly for Services performed during the prior month. Fees will be netted out of Client’s monthly revenue disbursement. Client will submit payment for any balance due to Consultant within 30 days of receiving the invoice.

30. Payment Processing – Consultant will configure payment processing services to utilize either a taxpayer funded model (convenience fee) or Client funded model, as directed by Client. Client may switch between these models upon written request to Consultant. Fees for each of these payment processing models are detailed here.

30.1. Taxpayer funded model – Client authorizes Consultant to collect each convenience fee from the taxpayer at time of payment.

30.1.1. Credit and debit card processing – 2.9% of transaction amount, minimum of \$2.00

30.1.2. ACH/eCheck processing - \$2.50 per transaction

30.2. Client funded

30.2.1. Credit and debit card processing – 2.9% of transaction amount

30.2.2. ACH/eCheck processing - \$0.75 per transaction

30.3. Returned payments/NSF fee – Each occurrence of a card chargeback, returned payment or insufficient funds will incur a fee of \$25.00, to be applied to the taxpayers account.

30.4. Consultant reserves the right to review and adjust pricing related to payment processing services on an annual basis. Consultant will communicate any such adjustment to Client in writing, with 60 days advance notice. Items that will be considered in the review of fees may include, but are not limited to: regulatory changes, card association rate adjustments, card association category changes, bank/processor dues and assessments, average consumer payment amounts, card type utilization, and costs of service.

FEES – Utility Users Tax Audit

31. Utilities Users Tax Audit – Consultant will perform reviews of the reports of utility users’ taxes (cable, electric, gas, telecommunications as appropriate – collectively Companies) concerning the utility users’ taxes (UUT) payments to Client for an hourly rate of \$220 per hour, not to exceed \$25,000.00 per review. It is possible for a single company to require multiple reviews (with separate budgets), i.e. Verizon/Frontier for wireline services and cellular service.

31.1. If Client takes legal action to collect underpayments identified by Consultant, any additional services, e.g. expert testimony, by Consultant will be provided at an agreed hourly rate of \$250.00 per hour.

31.2. Fees for any travel and lodging expenses will be billed at cost and applied to all meetings (including implementation, training, operations and support).

31.3. Client will be invoiced monthly for Services performed during the prior month.

31.4. Review not to exceed amount will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price

Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the “CPI Change”). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.

- 31.5. Consultant may change the rates for its hourly Fees from time to time in its sole discretion upon at least 30 days’ prior written notice to Client.

FEES – Cannabis Management

32. Prices are valid for 90 days from the date of this proposal to allow time for consideration and negotiating a service agreement. Once under contract, prices shall be honored for the first full year, with successive years subject to an annual increase based upon the Consumer Price Index for the Los Angeles-Long Beach-Anaheim region.

Scope of Service Objectives	Estimated Cost
Conduct a Fiscal Analysis Assumes up to 100 hours at \$300/hr (billed at hourly rate)	\$30,000 ¹
Annual Revenue Audits Assumes standard 12-month review period	\$10,000 per audit
Technical Assistance and Subject Matter Expertise	Hourly Rate
Administration of Monthly Cannabis Tax Payments Does not include initial setup cost	\$800 per business per year

33. Services – Cannabis Management

- 33.1. Hourly Services for HdL Staff. The prices in this proposal are based on the hourly rates for HdL staff as shown in the chart below. Any additional services requested by the client that are not specifically described in this proposal would be billed at the standard rate for the assigned staff person.

HdL Staff Person	Title	Hourly Rate
Matt Eaton	Director of Compliance	\$300
Mark Lovelace	Senior Policy Advisor	\$300
Elizabeth Eumurian	Director of Audits	\$300
Valerie Carter	Senior Auditor	\$250

FEES – Cannabis Compliance Inspections

34. Compliance Inspections

- 34.1. Cost for each inspection is \$2,500.

ADDITIONAL TERMS – Sales, Use and Transactions Tax Services

35. Consulting and Other Optional Services

- 35.1. Fees for performing the consulting and other optional Services described above shall be based on the following initial hourly rates: (i) Principal - \$325; (ii) Programmer - \$295; (iii) Senior Analyst - \$245; and (iv) Analyst - \$195.
- 35.2. Consultant may change the rates for its hourly Fees from time to time. A 30 days' prior written notice to City will be given.

36. General Provisions Relating to Fees

- 36.1. Fees for travel and lodging expenses will be invoiced at cost and applied to all meetings (including implementation, training, operations and support). Travel expenses only apply to out of scope travel and must therefore be pre-approved by City.
- 36.2. Fees will be invoiced monthly to City for Services performed during the prior month. To the extent that Consultant has commercially reasonable means to do so, Fees will be netted out of City's monthly revenue disbursement.